882

SUPREME COURT OF THE UNITED STATES.

No. 140.

THE UNITED STATES, APPELLANTS,

vs.

THOMAS W. SUTHERLAND, GUARDIAN, &c.

APPEAL FROM THE DIST. COURT U. S. FOR THE SOUTHERN DISTRICT OF CALIFORNIA.

INDEX.

	Original.	Print.
Proceedings before commissioners	1	1
Petition of claimant	3	2
Deposition of S. Arguello	4	2
" Abel Stearns	5	4
" J. J. Warner	6	4
Espediente	7	4
Map	11	6
Map	12	6
Translation of espediente	17	9
Opinion of commissioners	21	12
Decree of commissioners	23	13
Certificate of secretary	25	14
" clerk of district court	26	14
Proceedings in district court	27	14
Notice of appeal	29	16
Petition of claimant	31	17
Answer	34	19
Motion to take further testimony	39	22
Notice of hearing	40	22
Judicial possession	40	23
Testimony of Daniel Sexton	43	24
Deposition of J. M. Estudillo	44	25
Transcript of judicial possession	49	28
Decree of district court	53	31
Appeal granted	54	31
Clerk's certificate	55	32

GIDEON, Print.

Transcript of the proceedings in case No. 263—*Thos. W. Sutherland, Guardian, &c., claimant,* vs. *The United States, defendant—for the place named "San Jacinto Nuevo y Potrero."*

OFFICE OF THE BOARD OF COMMISSIONERS
To ascertain and settle the private land claims in the State of Cal'a.

Be it remembered, that on the tenth day of June, anno Domini one thousand eight hundred and fifty-two, before the commissioners to ascertain and settle the private land claims in the State of California, sitting as a board in the city of San Francisco, in the State aforesaid, in the United States of America, the following proceedings were had, to wit:

The petition of Thomas W. Sutherland, guardian, &c., for the place named "San Jacinto Nuevo y Potrero," was presented and ordered to be filed and docketed with No. 263, and is as follows, to wit:

(Vide page 3 of this Transcript.)

Upon which petition the following subsequent proceedings were had in their chronological order, to wit:

LOS ANGELES, *October* 14*th*, 1852.

In case No. 263, Thomas W. Sutherland, guardian, &c., for the place named "San Jacinto Nuevo y Potrero," the deposition of Santiago Arguello, a witness in behalf of the claimants, taken before Commissioner Hiland Hall, with documents marked S. H. H., and K. H. H., annexed thereto, was filed.

(Vide page 4 of this Transcript.)

LOS ANGELES, *November* 12, 1852.

In the same case, the deposition of Abel Stearns, a witness in behalf of the claimant, taken before Commissioner Hiland Hall, was filed.

(Vide page 5 of this Transcript.)

SAN FRANCISCO, *September* 13, 1853.

In the same case, the deposition of J. J. Warner, a witness in behalf of the claimant, taken before Commissioner Thompson Campbell, was filed.

(Vide page 6 of this Transcript.)

SAN FRANCISCO, *Sept.* 16, 1853.

Case No. 263 called: The counsel for the claimant read the evidence; argued, submitted, and taken under advisement by the board.

SAN FRANCISCO, *December* 27, 1853.

In the same case, Commissioner Thompson Campbell delivered the opinion of the board rejecting the claim.

(Vide page 19 of this Transcript.)

Petition.

To the honorable the Board of Commissioners for ascertaining and settling private land claims in the State of California:

Thomas W. Sutherland, a resident of the city of San Francisco, in the State of California, guardian of Victoria, Isabel, Miguel and Helena, minor children of Miguel de Pedrorena and Maria Antonio Estudilla de Pedrorena, both late of the county of San Diego, in said State, deceased, respectfully represents to your hon. board, that he claims, in his capacity of guardian of said minor children, a certain tract of land called San Jacinto Nuevo, and the Potrero belonging to it, containing the number of sitios de ganado mayor, as shown by the map in the espediente herewith filed, situated in the county of San Diego, in said State of California; that he claims the same as aforesaid, in fee, by virtue of a grant made to Miguel de Pedrorena, under the authority of the Mexican government, by Pio Pico, governor of the Californias, bearing date the 14th day of January, 1846, and approved by the territorial deputation on the 4th day of August, 1846. Your petitioner would further represent, that juridical possession of said land was given to the said grantee on the day of , and the boundaries thereof designated and defined, and that the said minor children have, ever since the death of their parents, been in peaceable thereof, and that he has no knowledge of any interfering claim to the said "San Jacinto Nuevo y Potrero."

Your petitioner presents herewith the espediente containing the documentary evidence of the claim to said land, in the Spanish language, together with a translation of the same, and will make further proof of title if required by the board. Your petitioner your hon. board to take into consideration his claim, in his said capacity of guardian, to the said tract of land, and decree his said title to be valid, and confirm the same. And your petitioner will ever pray.

SUTHERLAND & CARR,
Attorneys for Petitioner.

Filed in office, June 10th, 1852.

Deposition of Santiago Arguello.

LOS ANGELES, *October* 14, 1852.

On this day, before me, Hiland Hall, one of the commissioners for ascertaining and settling private land claims in the State of California, personally appeared S. Arguello, a witness produced in behalf of Thomas W. Sutherland, as guardian of Victoria, Isabel, Miguel and

Helena, minor children of Miguel de Pedrorena and Maria Antonio E. de Pedrorena, both deceased, the claimants of the rancho of San Jacinto Nuevo, which is number 263 on the docket of said commissioners, who being duly sworn, testified as follows.

The associate law agent was notified and attended.

Question 1st. What is your name, age, and place of residence?

Answer. My name is Santiago Arguello; I am sixty years of age, and reside near the boundary line between the State of California and Lower California, in Mexico. The rancho of To Juan, upon which I reside, being divided by said line.

Question 2d. Do you know the handwriting and signatures of Pio Pico, José Ma. Covarubias Arguello, and Narciso Botello?

Answer. I know the handwriting and signatures of Pio Pico, José Ma. Covarubias, and Narciso Botello, having been associated with them in public business and seen them write very frequently. The Arguello referred to is myself.

Question 3d. Look at the document or grant now shown you, marked K, and filed herewith as part of this deposition, purporting to be a grant for the rancho of San Jacinto Nuevo, and say whether said grant purporting to be signed by Pio Pico, José Ma. Covarubias, and Arguello, is genuine, and the signatures thereto genuine?

Answer. I know that my signature, Arguello, is in my own handwriting, and that the other signatures are also genuine. The document is a genuine one.

Question 4. Look at the document now shown you, purporting to be a certificate of an act of approval of the departmental assembly of California, marked "L," and filed herewith as part of the deposition, and say whether the signature of Narciso Botello is genuine or not?

Answer. I know his signature very well; it is his signature, and the document is a genuine one.

Question 5th. In whose handwriting is the document marked "L?"

Answer. It is in my own handwriting; on the day on which the said document was signed, to wit, the 8th day of July, A. D. 1846, I was president of the committee on vacant lands of the departmental assembly, and drew up said document and gave it to Narciso Botello to sign, as secretary. The grant of Pio Pico to Miguel de Podrena, of the rancho of San Jacinto Nuevo y Potrero, was approved by the excellent departmental assembly on the said 8th day of July, one thousand eight hundred and forty-six. Narciso Botello was secretary of the departmental assembly and member of the body on that day.

S. ARGUELLO.

Sworn and subscribed before me,

HILAND HALL, *Comm'r.*

Filed in office, Oct. 14th, 1852.

GEO. FISHER, *Sec'y.*

Deposition of Abel Stearns.

LOS ANGELES, *Nov. 12th*, 1852.

On this day, before Com'r H. Hall, came Abel Stearns, a witness in behalf of the claimants, Thomas W. Sutherland, guardian, &c., petition No. 263, and was duly sworn, his evidence being in English. The U. S. associate law agent was present.

In answer to inquiries by counsel for the claimant, the witness testified as follows:

My name is Abel Stearns; my age is fifty-four years, and I reside in Los Angeles; I have resided in California over twenty-three years.

I know the rancho called San Jacinto Nuevo y Potrero; it is situated in the county of San Diego; I was at the place in 1844; Miguel de Podrena had a stock of cattle there; I received four hundred head from him by purchase. He had cattle there until 1847, when in consequence the disturbances in the country and the hostility of the Indians, they were taken away. ABEL STEARNS.

Sworn and subscribed before me,

HILAND HALL, *Com'r.*

Filed in office, Nov. 12th, 1852.

GEO. FISHER, *Sec'y.*

Deposition of J. J. Warner.

OFFICE OF COMMISSIONERS OF LAND CLAIMS IN CALIFORNIA.

This day, before Com'r Thompson Campbell, came J. J. Warner, a witness in behalf of the claimant, Thomas W. Sutherland, guardian, &c., No. 263, who after being duly sworn, deposed as follows:

My name is J. J. Warner; I am forty-five years of age, and I reside at San Diego.

Do you know whether Miguel Pedrorena ; and if so, where did he die?

He is dead, and died in the spring of the year 1850; he left a widow, since deceased, and four children now living, whose names are as follows: Victoria, Miguel, Isabel and Elena.

Associate law agent present. J. J. WARNER.

Sworn and subscribed before me, this 13th day of September, A. D. 1853. THOMPSON CAMPBELL, *Com'r.*

Filed in office, Sept. 13th, 1853.

GEO. FISHER, *Sec'y.*

Año de 1846.—Jurisdicion del partido de S'n Diego.

Espediente promovido por el S'or D'n Miguel Pedrorena en solicitud del parage de S'n Jacinto Nuebo.

(095.)

Ex'mo S'or Gobernador:

Miguel de Pedrorena, comerciante y establecido en este departamento hasta bastante años, ante V. E. con el debido respeto comparesco y

digo, que satisfecho con lo estoy y sera probado se necesario fuere, de que en el rancho de San Jacinto resulta terreno sobrante algun beneficio adjudicado al S'or Don José Antonio Estudillo, pues comprende mayor numero de sitios de los que el superior gobierno le concedio, ruego á V. E. que tomando en consideracion la necesitad que tengo de un parage en donde poner engueñar algunos bienes de campo que he adquirido en mayor numero y estan espuestos á perderia por falta del gob'r en donde a multipliquen a digne conceder me en propriedad conforme á la ley de 18 de Agosto, de 1824, todo lo que resulta sobrante del referido San Jacinto segun y como mas en todos sus partes, incluyendo el potrero el diseno que debidamento acompaño en la intelligencia q. de ella no resulta perjuicio de terreno que á mi no hara V. E. un beneficio que reconecerá, y que hace tambien en ponerlo del mismo departamento que necesita tanto de que sus tierras sean ocupados por proprietario que siempre procederan su util al gobierno; suplico á V. E. igualmente que si suviere segun esponde lo generalidad que se acuerda á mi solicitud sea estendido el titulo bajo la demarcacion de San Jacinto Nuevo en todo lo que recibiré gracia dispensando el uso del papel comun por falta de sellado que no lo hay.

Angeles, Diciembre 24, de 1845.

MIGUEL DE PEDRORENA.

ANGELES, *Diciembre de* 27, *de* 1845.

Pasa al s'or sub-prefecto de S'n Diego, á fin de que segundo la parte de Don José Antonio Estudillo informe concerniente sobre la contenido en esta instancia.

PICO.

Ex'ma S'or:

Atento al superior decreto marginal de V. E. de 29 de D'bre ultimo, puesto en la antecedente solicitud, y en lo que se pretendo el sobrante que resulta en las mediciones del parage de San Jacinto, espondré: Que presente D. José A. Estudillo como dueño del parage mencionado y hecho cargo de la presente solicitud, responde que nada tiene que objectar nuevo terreno sobrante del que tiene concedido por lo que resulta no presentarse inconveniente á la concesion de este parage con inclusion del Potrero de San Jacinto, p'r su terreno valdio que ocuparan tambien aquellos bienes. En este concepto resulta que el terreno solicitado es valdio, y puede acederse á esta solicitud sin embargo de la espuesta V. E. con mejor resolvera lo que fuere de su superior agrado.

S'n Diego, Enero 2, de 1846.

[SEAL.] S. ARGUELLO.

LOS ANGELES, *Enero* 14, *de* 1846.

Vista la solicitud con que da principio esto espediento el informe del gobierno del prefecto de San Diego, con lo demas que se tubo presente y ver convino de conformidad con la ley de 18 de Agosto, de 1824, y reglamentos de 21 de Noviembre, de 1828: Declara á Don Miguel de Pedrorena dueño en propiedad del terreno nombrado S'n Jacinto, con-

forme demuestra el diseño que obra en esta espediente libresele el agraciado el titulo respectivo, y reservese el espediente para se metulo a lo aprobacion de la E. asamblea.

Pio Pico, gobernador provisional de las Californias, asi lo mandé, decreté y firme, de que doy fée.

PIO PICO.
JOSE MA. COVARRUBIAS, *S'rio.*

Pio Pico, Vocal decano de la Asamblea Departamental y Gobernador Provicional de las Californias.

Por cuanto D'n Miguel de Pedrorena ha pretendido para su beneficio personal y el de su familia el terreno nombrado San Jacinto Nuevo, con inclusivo del potrero del mismo nombre, practicados previamente las diligencias concernientes, usando de las facultades que me sin conferidas á nombre de la nacion Mejicano, he venido por decreto de este dia en concederle el espresado terreno y potrero, en conformidad con la ley de 18 de Agosto, de 1824, y reglamentos de 21 de Noviembre, de 1828, á reserva de la aprobacion de les ex'ma asamblea departamental, y bajo las condiciones siguientes:

1o. Podrá cercarlo sin perjudicar las travesias caminos y servidumbres, lo disfrutara libre y esclusivamente, pero lo tendrá ocupado con casa habitada y bienes de semientes á fin de evitar al denuncio.

2a. Solicitará del juez respectivo le de la posecion juridica en virtud de este despacho por el cual se demarcaron los linderos con las mojoneras necesarios.

3a. El terreno de quese hace donacion con inclusivo de Potrero de San Jacinto es el que demuestra el diseño y con en el espediente. El juez que diere la posecion lo hará medir conforme á ordenanza quedando sobrante emprezado las medidas desde los linderos de D'n José Ant'o Estudillo, y diere aviso á este gobierno del numero de citios de ganado mayor que contiene.

En consecuencia mando que teniendose el presente titulo por firme y valedero, se tome de el en el terreno a que corresponde y se entregue al interesado para su resguardo y demas fines.

Dado en la ciudad de Los Angeles, en este papel comun por no haber del sellado, á catorce de Enero, de mil ochocientos cuarenta y sies.

Queda tomado razon de este superior despacho en el *el* libro respectivo.

Angeles, Mayo 8, de 1846.

[*For map see original, page* 11.]

[*For map see original, page* 12.]

Most excellent Sir:

In attention to the superior marginal decree of your excellency, dated the 27th of last December, placed in the preceding request, and that in which the excess resulting in the measurement of the paraje de San Jacinto was pretended for, I will state, that being present, Don José H. Estudillo, as owner of the place mentioned, and having made him understand the present petition, he replied that he had no objection whatsoever, it being an excess of the land that he had granted to him; by which the result is, that it would not appear inconvenient to grant the paraje, including also the potrero of San Jacinto, it being vacant land, which is also comprised in the same property. In this instance the result is, that the land petitioned for is vacant, and the petition might be acceded, notwithstanding all that is set forth. Your excellency, with better judgment, will resolve therein as will suit your superior pleasure.

S. ARGUELLO.

San Diego, Jan'y 2d, 1846.

ANGELES, *Enero* 14, *de* 1846.

Having seen the foregoing petition at the beginning of this espediente, with the information from the prefect of San Diego, with others that might be interested, and it appearing suitable, in conformity with the law of the 18th of August, 1824, and the regulations of the 24th of Nov., 1818, I hereby declare Don Miguel de Pedrorena to be the owner in person of the land named San Jacinto; in conformity, demonstrated with the plan accompanying this patent, deliver to the party favored the respective title, and reserving the patent to submit it to the most excellent departmental assembly.

Pio Pico, provisional governor of the Californias, thus I command, decree and sign, of which I hereby give faith.

PIO PICO.

JOSE MARIA COVARRUBIAS, *Sec'y.*

Pio Pico, Vocal owner of the Departmental Assembly and Provisional Governor of California:

Whereas, Don Miguel de Pedrorena has pretended to, for his personal benefit and that of his family, the land called San Jacinto Nuevo, including the potrero of the same name, the previous measures and arguments having been taken, and in use of the faculties conferred upon me in the name of the Mexican nation, I have concluded by a decree of this day to grant the *the* aforesaid land and potrero, declaring it to be his property by these presents, in conformity with the law of the 18th August, 1824, and regulation of the 21st of November, 1828, reserving it for the approbation of the most excellent departmental assembly, and under the following conditions:

1st. He can enclose it without prejudice to the crossings, roads, highways and services; he will enjoy it freely and exclusively, but he

shall have it occupied with a house inhabited, and some camp property, to the effect that may avoid denouncement.

2d. He will request the respective magistrate to give him judicial possession thereof by virtue of this despatch, by which he will mark out the limits with the necessary landmarks,

3rd. The land which is donated to him, including the potrero of San Jacinto, is the one that is shown upon the plan accompanying the expediente. The justice that shall give the possession thereof will have it measured conformable to the ordinance, the measuring to begin from the lines of Don José Antonio Estudillo, and he will make a return to this government of the number of sitios of ganado mayor that it contains.

In consequence whereof, I command that he holds this title firm and valid; record shall be made thereof in the corresponding register, and it shall be delivered to the party interested for his security and other ends. Given in the city of Los Angeles, on this common paper, there being no stamped, on the fourteenth of January, in the year eighteen hundred and forty-six.

This superior despatch is recorded in the respective book.

Angeles, May 8th, 1846.

A report was made to the most excellent departmental assembly at a session of this day; with this patent it was ordered that it should be transmitted to the commission on vacant lands.

PIO PICO, *President.*
AUGUSTIN OLVERA, *Secretary.*

SIR: The commission on vacant lands charged with the examination of the present patent aspired to by Don Miguel de Pedrorena, of the land known by the name of San Jacinto Nuevo, including the potrero in the jurisdiction of San Diego, and which was granted to him by the superior departmental government for his benefit and that of his family, in accordance with the laws on the subject; to this effect I place for your excellency's deliberation the following proposition:

Approval is made of the grant made to Don Miguel de Pedrorena (married to a Mexican woman) of the land named San Jacinto Nuevo, including the potrero, the extension of which corresponds with the plan accompanying the patent, according to the title delivered, dated the fourteenth of January of this year, was stipulated in conformity with the number of sitios by the law of the 28th of August, 1824, and article 5th of the regulation of 21st of Nov'ber, 1828.

Commissioners' room, city of Los Angeles, Aug. 4th, 1846.

S. ARGUELLO.

Filed in office, June 10th, 1852.

GEO. FISHER, *Secretary.*

Opinion by Commissioner Thompson Campbell.

THOMAS W. SUTHERLAND, guardian of Victoria, Isabel, Miguel and Helena, minor children of Miguel de Pedrorena and Maria Antonio Estudillo de Pedrorena, deceased, vs. THE UNITED STATES. } San Jacinto Nuevo.

The petitioner in this case represents himself as guardian of the minor children of Miguel de Pedrorena and his wife Maria Antonio Estudillo, deceased, and as such guardian he claims a tract of land called San Jacinto Nuevo, by virtue of a grant which he alleges was issued to Miguel de Pedroreno, in his lifetime, bearing date January 14th, A. D. 1846. The said petitioner further alleges, that said grant was duly approved by the departmental assembly on the 4th day of August, A. D. 1846. It is further alleged by said petitioner, that juridical possession of the premises in question was duly given, and the boundaries thereof were designated and defined. In support of the foregoing averments and allegations, the petitioner has introduced and placed on file, first, the original grant, properly proved and authenticated; secondly, a certificate of the approval made by the departmental assembly; thirdly, a traced copy of the espediente, and fourthly, the depositions of witnesses. The foregoing documents and depositions embrace all the testimony adduced by the petitioner in this cause. There is no proof that any juridical measurement was ever made. As the petitioner claims in the capacity of guardian, proof of his authority should have been produced; but as the petitioner will have an opportunity of filing his letters of guardianship in the district court of the United States, and as the case depends upon the decision of another question, which goes to the merits of the whole claim, I have deemed it better to consider the case at present on its merits, rather than decide it on the technical question of want of proof of authority to act as guardian. The description of the land claimed is the material and by far the most important question in the decision of this case. The land selected by the original grantee was the sobrante of a tract of land which had been granted to one José Antonio Estudillo, and is designated by the said grantee in his petition to the governor as follows: All that land that result to an excess of the forementioned San Jacinto, in accordance as will be shown in all parts of it, including the potrera. "The plan which duly accompanies this is intelligence sufficient to show that no danger would result to a third party." This is all the description given by the party in his petition. The grant which followed is not more definite. The only description there given is for the land called "San Jacinto Nuevo," including the potrero of the same name. The 3rd condition of the grant describes the tract granted as being the one shown on the map which accompanied the espediente, including the potrero of San Jacinto, which last named place is re-

presented on a separate map. There is nothing in the grant that indicates the quantity or the boundaries of the land granted, and as no juridical measurement was ever made, we must look to the map referred to for a description of the boundaries by which the tract granted is to be separated from the adjoining lands. After a careful examination of the map which accompanies the espediente, and which is executed with considerable skill, I have been unable to bound the land in question. The map does not represent a single natural boundary or physical object by means of which the particular tract could be designated. The name of ranchos are written on the map, but their location is equally indefinite; and although lines are drawn representing what is understood to be old San Jacinto, meaning the Estudillo grant, and new San Jacinto, the grant under consideration, there is no proof where a surveyor could begin to measure the land called new San Jacinto; and although it would seem that the grant was intended to be by metes and bounds, without regard to quantity, still it is essential that the metes and bounds should be plainly designated, either in words or descriptionally, on the map. In this case there is neither a description in words or by natural objects, and the map being the only means afforded whereby the identity of the precise tract granted can be identified and located, the claim set up by the petitioner must be denied for want of certainty in the description. The potrero, which is made a part of the grant, is liable to the same objection, and is not designated on the map so as to be ascertained with any degree of certainty. I have examined the paper and map on file in the old San Jacinto grant, but have been unable to derive any aid from the description there given. It is unnecessary to examine the other questions which arise in the case, or the want of identity is fatal under any view of the case. A confirmation is therefore denied.

Filed in office, Dec. 27th, 1853.

GEO. FISHER, *Sec'y.*

Decree.

THOMAS W. SUTHERLAND, guardian of Victoria, Isabel, Miguel and Helena, minor children of Miguel de Pedrorena and Miguel Antonio Estudillo de Pedrorena,

vs.

THE UNITED STATES.

In this case, on hearing the proofs and allegations, it is adjudged by the commission, that the claim of the said petitioners is not valid, and their application for a confirmation thereof is therefore denied.

ALPHEUS FELCH,
THOMPSON CAMPBELL,
R. AUG. THOMPSON,
Commissioners.

Filed in office, December 27, 1853.

GEO. FISHER, *Secretary.*

OFFICE OF THE BOARD OF COMMISSIONERS
To ascertain and settle the private land claims in the State of Cal'a.

I, George Fisher, secretary to the board of commissioners to ascertain and settle the private land claims in the State of California, do hereby certify the foregoing twenty-two pages, numbered from 1 to 22, both inclusive, to contain a true, correct, and full transcript of the record of the proceedings, and of the decision of the said board, of the documentary evidence, and of the testimony of the witnesses upon which the same is founded, on file in this office, in case No. 263 on the docket of the said board, wherein Thomas W. Sutherland, guardian, &c., is the claimant against the United States for the place known by the name of "San Jacinto Nuevo y Potrero."

In testimony whereof, I have hereunto set my hand and affix my private seal, (not having a seal of office,) at San Fran-
[SEAL.] cisco, California, this 12th day of September, A. D. 1854, and of the independence of the United States of America the seventy-ninth.

GEO. FISHER, *Sec'y.*

UNITED STATES DISTRICT COURT,
Southern District of California.

CLERK'S OFFICE, LOS ANGELES.

I, Charles E. Carr, clerk of the district court of the United States for the southern district of California, do hereby certify that the foregoing twenty-two pages, numbered from 1 to 22, both inclusive, contain a full, true, and correct copy of transcript in case No. 82, filed in my office, wherein Thos. W. Sutherland, guardian, is appellant, and the United States are appellees, for San Jacinto Nuevo y Potrero.

In testimony whereof, I have hereunto set my hand, and
[SEAL.] affixed the seal of said court, at Los Angeles, California, this 17th day of March, A. D. 1856.

C. E. CARR, *Cl'k,*
By O. MORGAN, *Dep'ty.*

UNITED STATES DISTRICT COURT,
For the Southern District of California.

CLERK'S OFFICE, LOS ANGELES.

THOMAS W. SUTHERLAND, guardian, appellant, } No. 82.
vs.
THE UNITED STATES, appellee. } Transcript No. 263.

Be it remembered, that on the day of , A. D. 185 , in the district court of the United States for the southern district of California, the following proceedings were had, to wit: a duly certified transcript of the proceedings and decision of the commission to ascertain and settle the private land claims in the State of California, when sitting as a board, in the case wherein Thos. W. Sutherland, guardian, is the claimant against the United States, for the place named "San Jacin-

to Nuevo y Potrero," was received, filed, and docketed with No. 82 on the docket of said court, and is as follows, to wit:

(Vide page 1 of this Transcript.)

Los Angeles, *Dec.* 13*th*, 1854.

In same case, notice of appeal from the decision of land commission filed.

(Vide page 1.)

Los Angeles, *March* 6*th*, 1855.

In same case, notice of appeal from the decision of land commission filed.

(Vide page 2.)

Los Angeles, *March* 10*th*, 1855.

In same case, petition for review filed by appellant.

(Vide page 3.)

Los Angeles, *March* 21*st*, 1855.

In same case, answer of U. S. dist. att'y filed.

(Vide page 6.)

Los Angeles.

In same case, motion to take further testimony.

(Vide page 11.)

Los Angeles, *Oct.* 11*th*, 1855.

In same case, notice of hearing filed by U. S. att'y.

(Vide page 12.)

Los Angeles, *Dec.* 17*th*, 1855.

In same case, act of judicial possession, marked H.H, No. 1, filed.

(Vide page 12.)

Los Angeles, *Dec.* 17*th*, 1855.

In same case, deposition of Daniel Sexton, a witness on the part of claimant, filed.

(Vide page 15.)

Los Angeles, *Dec.* 17, 1855.

In same case, deposition of José Ma. Estudillo, a witness on behalf of claimant, filed.

(Vide page 17.)

Los Angeles, *Dec.* 18*th*, 1855.

In same case, transcript of act of judicial possession, from transcript No. 115, marked H.H, No. 1, filed.

(Vide page 22.)

Los Angeles, *Dec.* 18, 1855.

In same case, translation of approval of departmental assembly filed.

(Vide page 25.)

Los Angeles, *Feb'y* 14, 1856.

In the same case, decree of the court confirming the claim of appellant therein filed.

(Vide page 26.)

Los Angeles, *March 7th*, 1856.

In same case, notice of appeal to Supreme Court of the United States filed.

(Vide page 27.)

Notice of Appeal.

In the matter of the application of Thomas W. Sutherland, guardian of the heirs of Miguel de Pedrorena, deceased, for confirmation of the title to the rancho of San Jacinto Nuevo y Potrero, in the county of San Diego, and State of California.

Thomas W. Sutherland, guardian of the heirs of Miguel de Pedrorena,
vs.
the United States.

In the United States District Court for the southern district of California.

Sir: Please take notice that the claimants in the above entitled cause appeal from the whole of the decision of the board of commissioners for ascertaining and settling the private land claims in the State of California, rejecting their claim to the title to the rancho of San Jacinto Nuevo y Potrero, in the county of San Diego, said decision having been rendered by said board on the 27th day of December, A. D. 1853.

THOS. W. SUTHERLAND,
Att'y for Claimants.

To Charles E. Carr, esq.,
Cl'k of the U. S. Dist. Court for the southern district of California.

Filed Dec. 13, 1854.

C. E. CARR, *Cl'k.*

Notice of Appeal.

Thomas W. Sutherland, guardian, &c., appellant,
vs.
United States.

In the United States District Court for the southern district of California.

No. 82 on the docket of said Court.

Appeal from the final decision of the board of commissioners to ascertain and settle private land claims in the State of California, taken

on 20th September, 1854, by the said board, having filed with the clerk of said court a certified transcript of their proceedings and decision, of the papers and evidence upon which the same are founded in the said cause, being No. 263 on the docket of said board.

Notice is hereby given, that Thomas W. Sutherland, guardian of Victoria, Isabel, Miguel and Helena, infant children of Miguel de Pedrorena and Maria Antonio his wife, both dead, appellant in the above entitled cause, and claimant before the said board in a claim for a tract of land situated in the said southern district, and known by the name of San Jacinto Nuevo and the Potrero, filed before said board on the 10th June, 1852, and being on its docket No. 263, will prosecute the appeal herein from the first decision of said board, entered on the 27th December, 1853, against and adverse to the claimant.

J. LANCASTER BRENT,
Att'y for Appellant.

Filed March 6th, 1855.

C. E. CARR, *Cl'k.*

Petition.

THOMAS W. SUTHERLAND, guardian, appellant,
vs.
THE UNITED STATES. } No. 82.

In the U. S. District Court for the southern district of the State of California:

To the Hon. Isaac S. K. Ogier, district Judge of the United States within and for the southern district of California.

The petition of Victoria Pedrorena, Isabel Pedrorena, Miguel Pedrorena, and Helena Pedrorena, all infants and children of Miguel de Pedrorena and Maria Antonio his wife, both deceased, citizens of the United States and residents of said district, by Thomas W. Sutherland, guardian of said infants, duly appointed and qualified as such, in virtue of the decree of the probate court of San Diego county, in the State aforesaid, having jurisdiction over the persons of said infants, in virtue of their residence in said county, respectfully showeth: That on the 14th January, 1846, Pio Pico, senior member of the departmental assembly and governor pro tem. of the Californias, then forming a part of the republic of Mexico, by virtue of authority in him vested by law, granted in fee to Miguel de Pedrorena, then living, a tract of land situated in the county of San Diego, in said district and in the jurisdiction of this court, known by the name of "San Jacinto Nuevo," and Potrero of the same name, and duly made and delivered to the said Pedrorena a formal deed of conveyance of the same, bearing date as aforesaid, which said grant was afterwards approved by the assembly.

Your petitioner further represents, that said grant was a concession according to metes and bounds, the extent and description of which

was shown and accurately marked out by a survey made out and filed in the archives of the government, and referred to and made a part of said grant; and that said concession embraced the quantity of eleven Mexican leagues, taking the lines of a tract of land called San Jacinto Viejo, the boundary of which was well known as the base of the said concession.

Your petitioner further shows, that after the date of the said concession and grant, the said grantee took possession and faithfully complied with all the conditions of his said grant, except the one concerning the obtaining of the juridical possession thereof, which said condition it was impossible to fulfil, owing to the said Pedrorena being severely wounded subsequent to said grant, on the 7th of July next thereafter, and owing to the fact that the judge authorized to give said juridical possession absented himself from his district, but they aver that the said Pedrorena held possession of said tract of land until his death, and after his death your petitioners have, and do still hold, possession of the same. They own that the said Pedrorena died intestate; that your petitioner and that your petitioners are his only children and heirs at law.

They further represent, that on the 10th June, 1852, your petitioners, by their said guardian, filed their petition claiming said land, before the land commissioners appointed under an act of Congress entitled an act to ascertain and settle the private land claims in the State of California, approved March 3d, 1851, while sitting as a board, together with the testimony upon which they relied. And that afterwards, to wit, on the 27th December, 1853, the said commissioners decided upon the invalidity of their said claim and rejected it. And that afterwards, to wit, on the 20th September, 1854, an appeal from the decision of said claim was taken by the said commissioners, having filed with the clerk of this hon. court a certified transcript of their proceedings and decision, of the papers and evidence upon which the same was founded. And that afterwards, within six months, to wit, on the 5th March, 1855, your petitioners filed a motion with the said clerk of their intention to prosecute said appeal. Your petitioners here make particular reference to said certified transcript, and pray that the same may be made a part of this petition.

These petitioners further aver, that their said claim is valid according to law and equity, and that the final decision of said board is erroneous.

Wherefore these petitioners pray that your hon. court may review the said decision, and decide upon the validity of their said claim, and declare it to be valid and affirm the same, and for such other general or further relief as the nature of their case may require and law or equity grant, and as in duty bound your petitioners will ever, &c.

J. LANCASTER BRENT,
Of counsel for petitioners.

Filed March 10th, 1855.

C. E. CARR, *Cl'k.*

Answer.

In the District Court of the United States for the southern district of California, Los Angeles county.

THOMAS W. SUTHERLAND, guardian of Victoria Pedrorena, Isabel Pedrorena, Miguel Pedrorena, and Helena Pedrorena, infants and minor children of Miguel Pedrorena and Maria Antonio, his wife, deceased, appellant,
vs.
THE UNITED STATES.

No. 82.
(No. 263 of Transcript.)

Answer of the United States to the Petition of Appellant, praying the court to review the decision of the United States Commissioners.

The answer of Pacificus Ord, attorney of the United States for the southern district of California, in behalf of the United States, to the petition of Victoria Pedrorena, Isabel Pedrorena, Miguel Pedrorena, and Helena Pedrorena, all infants and children of Miguel Pedrorena and Maria Antonio, his wife, both deceased, citizens of the United States and residents of said district, by Thomas W. Sutherland, guardian of said infants, (filed March 10th, 1855,) alleging that on the 10th of June, 1852, they, by their said guardian, filed their petition before the said commissioners appointed under "An act to ascertain and settle the private land claims in the State of California," approved March 3rd, 1851, while sitting as a board, claiming a tract of land situated in the county of San Diego, in said district, known by the name of "San Jacinto Nuevo," a potrero of the same name, of the extent and description, and according to the metes and bounds which were shown and accurately marked out by a survey made out and filed in the archives of the government, and referred to and made a part of the grant; and that the concession embraced the quantity of eleven Mexican leagues, taking the line of a tract of land called "San Jacinto Viejo," the boundary of which was well known as the base of the said concession. And that afterwards, on the 27th December, 1853, the said commissioners decided upon the validity of their said claim and rejected it; and praying this hon'ble court to review the said claim and declare it to be valid, and approve the same, and for general relief.

And the said attorney, answering said petition in behalf of the United States, denies generally, alland singular, each and every allegation in the said petition contained, and he denies specially: "That on the 14th of January, 1846, Pio Pico, senior member of the departmental assembly, and governor pro tem. of the Californias, then forming a part of the republic of Mexico, by virtue of authority in him vested, granted in fee to Miguel de Pedrorena, then living, a tract of land situated in the county of San Diego, in said district, and in the jurisdiction of this court, known by the name of 'San Jacinto Nuevo,' a potrero of the same name, and duly made and delivered to the said Pedrorena a formal

deed of conveyance of the same, bearing date as aforesaid, which said grant was afterwards approved by the assembly; that said grant was a concession according to metes and bounds, the extent and description of which were shown and accurately marked out by a survey made out and filed in the archives of the government, and referred to and made a part of said grant; and that said concession embraced the quantity of eleven Mexican leagues, taking the line of a tract of land called 'San Jacinto Viejo,' the boundary of which was well known as the base of the said concession; that after the date of the said concession and grant the said grantee took possession of the granted premises, and faithfully complied with all the conditions of the said grant, except the one concerning the obtaining of the juridical possession thereof, which said condition it was impossible to fulfil, owing to the said Pedrorena being severely wounded subsequent to said grant, and the 7th July next thereafter, and owing to the fact that the judge authorized to give said juridical possession absented himself from his district; but they aver that the said Pedrorena held possession of said tract of land until his death, and after his death your petitioners have and do still hold possession of the same; that the said Pedrorena died intestate, and that your petitioners are his only children and heirs at law; that the said claim is valid according to law and equity; and that the final decision of said board is erroneous," as alleged in said petition. And that the said attorney of the United States, in pursuance of the provisions of the said act of Congress approved the 3d of March, 1851, herein fully sets forth the ground on which the said claim is invalid, to wit:

I. That the said alleged grant of Pio Pico, dated the 14th of January, 1846, was made in violation of the 4th article of the colonization law of Mexico, of the 18th of August, A. D. 1824, in this: that the land granted, as alleged by claimants, was and is within ten leagues of the sea-coast, and there is no evidence shown by said claimants that the supreme general executive of Mexico previously approved of the colonization of the public lands in Upper California, lying within ten leagues of the sea-coast; and it is denied that the previous consent of said supreme general executive power of Mexico in such case was ever had.

II. That at the date of the said alleged grant, the said land or lands were occupied by and in the possession of the missions of Upper California, and particularly by the missions of San Gabriel, San Juan Capistrano, and San Luis Rey, and could not therefore be colonized.

III. That the said alleged grant has not the conditions required by, and is not made in entire conformity with, the said law of Mexico of the 18th of August, 1824, and the regulations for the colonization of the territories of Mexico, of the date of the 21st of November, 1828.

IV. That the said alleged grant of land by Pio Pico, dated the 14th of January, 1846, to said Miguel de Pedrorena, does not contain any description of the locality, extent and boundaries of the land claimed, by which it can be identified and surveyed; that the map or maps referred to in said alleged grant, as shown by said claimants, do not

show with certainty the locality, extent, and boundaries of the land claimed, and the said tract or tracts of land cannot be identified and surveyed by said map or maps; that the said alleged grant, and the map or maps referred to therein, are vague and indefinite, and void for uncertainty.

V. That it appears by the said map or maps, shown by said claimants, that the extent of the lands claimed as aforesaid, and called "San Jacinto Nuevo," and "Potrero," exceed eleven square leagues; that the said Pio Pico had no lawful authority to grant to the said Miguel de Pedrorena, as shown by said alleged map or maps, and claimed as aforesaid, and the said alleged grant is therefore void.

VI. That the said alleged grant is not executed upon the lawful stamped paper.

VII. That there is no sufficient evidence that the said alleged grant was ever approved by the departmental assembly of California and the supreme government of Mexico.

VIII. That the document shown by said claimants, purporting to be a certificate of Narciso Botillo of the approbation by the departmental assembly of California of the said alleged grant of Pio Pico, and dated July, 1846, is not executed upon the lawful stamped paper; that it is not signed by the president of the departmental assembly, as required by law; that it is not authenticated according to law, and that it is of no validity.

IX. That the said claimants show no definitely valid grant or title to the said lands; and it is denied that the said Miguel de Pedrorena ever had a definitely valid grant or title to said lands claimed as aforesaid.

X. That the said alleged grant of said Pio Pico, of said date, as shown by said claimants, does not purport to grant in fee to the said Miguel de Pedrorena a tract of land called "San Jacinto Nuevo y Potrero," as alleged in said petition of said claimants.

XI. That there is no evidence that the said Miguel de Pedrorena ever performed the condition of the said alleged grant, and the requirements of the law, and it is denied that the said Pedrorena ever performed the conditions of the said alleged grant, and the requirements of the law.

XII. That there is no evidence that the said Miguel de Pedrorena ever received or applied to the lawful authorities for the juridical possession of the said lands, alleged to have been granted as aforesaid, and it is denied that he ever received or applied to the lawful authorities for the juridical possession of the said lands, alleged to have been granted him as aforesaid by said Pio Pico.

XIII. That there is no evidence that the said Miguel de Pedrorena ever occupied the said lands, with an inhabited house and movable property, within one year from the date of the said alleged grant, and that he cultivated the said land as required by the conditions of the said alleged grant and the law; and it is denied that he ever improved, occupied, and cultivated the said lands, as required by the conditions of the said alleged grant and the law.

XIV. That there is no evidence that the said claimant Thomas W. Sutherland was and is the legal guardian of the said minor children and heirs of said Miguel de Pedrorena and wife, deceased, as alleged; and it is denied that the said Thomas W. Sutherland, claimant, is the legal guardian of the said alleged minor children and only heirs of the said Miguel de Pedrorena and wife, deceased, as alleged in said petition. Wherefore, the premises considered, the said attorney, respondent in behalf of the United States, prays that the said claimant may be served with copies of this answer; and that after due proceedings, this hon'ble court will decide the said claim of said petitioners for said tract or tracts of land to be invalid, and to decree cost against them, and general relief.

P. ORD, (of Monterey county,)
Attorney of the United States for the southern district of California.

Filed March 21st, 1855.

C. E. CARR, *C'lk.*

Motion to take Testimony.

THOMAS W. SUTHERLAND, guardian of the infant children of MIGUEL DE PEDRORENA, vs. UNITED STATES. } No. 82.

UNITED STATES DISTRICT COURT,
for the southern district of California.

And now come the plaintiff and move the hon'ble the district court for an order to take further evidence herein.

J. LANCASTER BRENT,
Att'y for Petitioners.

Notice of Hearing.

In the District Court of the United States for the southern district of California.

THO'S W. SUTHERLAND, guardian, vs. THE UNITED STATES. } No. 82. Transcript No. 263.

To THOMAS W. SUTHERLAND, *Guardian, &c., or his attorneys:*

Take notice that the above entitled cause will be brought to a hearing by the United States on Friday the 19th day of October, A. D. 1855, or as soon thereafter as the same can be heard by the court.

Los Angeles, October 11th, 1855.

P. ORD,
U. S. Dist. Att'y.

Filed Oct. 11th, 1855.

C. E. CARR, *Cl'k.*

C.—Judicial Possession.

H. H., No. 1.

En el pueblo de San Diego, de la Alta California, á lo veinte y seis Marzo, de mil ochocientos quarente y tres, anuente á la solicitud de S'or Don José Antonio Estudillo, vecino de esta demarcacion, á fin de que se la de la correspondiente posecion del sitio y rancho llamado San Jacinto, concedido por el gob'no de este departamento cuyo titulo acompaño en esta citada solicitud; pase con los testigos de assistencia al esprasado sitio, y procedé á dar la posecion indicado previa citacion de colindantes arreglandose al repetido titulo, que se le ha conferido pr. el ex'mo s'or gobernador interino del departamento, Dn. Manuel Ximeno, con fecha veinte un de Diciembre, de mil ochocientos quarenta y dos.

El ciudadano José Maria Oronho, juez de paz suplenta en esta demarcacion, asi lo provee, mandó y firmó, ante los testigos esprasados de asistencia, con quienes otro po receptoria en esta papel comun, por falta del segado correspondente, segun derecho, doy fée.

JOSE MARIA ORZONA.

De a.: Jose Lopez,
De a.: Jose Maria Alvarado.

En el rancho de San Jacinto, á las veinta y seis de Marzo, de mil ochocientos quarenta y tres: Yo el mismo juez para la practica de estas diligencias nombre dos hombres cordeleros, á quienes hise saber en nombram'to el que acepteron bajo juramento, que otorgaron ofriciendo desempeñar fielmente la encargo lo que autorizo y firmo con los testigos de mi asistencia, segun derecho.

JOSE MARIA ORSUNA.

De a.: Jose Lopez,
De a.: Jose Maria Alvarado.

En el mismo dia, mes y año, estando en el parage de San Jacinto, a efecto de verificar las medidas y posecion á Dn. José Antonio Estudillo, del sitio nombrado San Jacinto, previos todos los requisitos de ley, y estando ante mi los testigos de asistencia y cordeleros, hise medir un cordel que contenia sien varas y á los extremos unos sancos de palo; previa observacion y calculo por mi disposicion se tiró el cordel des de el Ojo de agua de San Miguelito, lindero de Temegula rancho, al sur se midieron cuatro leguas hasta la casa de dicho parage habiendo faltado de otros tres cordeles los que se agregan para la sierra de Ojo de agua Caliente: se signio para el rumbo del noreste en donde se medieron cuatro leguas hasta la rinconada satida para jurpa, se signio para el este donde se medieron tres leguas y media en que remataron con la rinconada de en donde se fijaron los mohoneras, y no habiendo manifestado objeciones algunas que suspendieron las medidas fueron concluidas las medidos del ranch de San Jacinto, á satisfacion del interesado el cual ordeno pusiera las respectivas mojoneras en las puntas

correspondientes; y queda estendido habiendo marcado aquellas en señal de posecion lo que autoriso y firmo, con los testigos de asistencia, segun derecho, doy fée.

JOSE MARIA ORROSHO,
JOSE MARIA ALVARADO.

De a.: JOSE MARIA ALVARADO.
JOSE LOPEZ.

En el dicho dia, mes y año, habiendo concluido las diligencias de este espediente perteneciente al rancho de San Jacinto, desde testimonio à Don José Antonio Estudillo, interesado en ellos pa. su seguridad y mas que lo convengan. El ciudadano José Maria Orocho, juez de paz, suplente de este demarcacion, asi lo proveyo y firmo con los testigos de asistencia, segun derecho, doy fée.

JOSE MARIA ORACHO.

De a.: JOSE LOPEZ,
De a.: JOSE MARIA ALVARADO.

En el mismo dia, mes y año, quedo librado al interesado el testimonio que se refiera en el auto anterior y para constancia lo rubriqué.

Filed in office, Sept. 8th, 1852.

GEO. FISHER, *Secretary*.

I, Charles E. Carr, clerk of the district court of the United States for the southern district of California, hereby certify the above and foregoing to be a true and correct copy of pages 23 and 24 of transcript No. 115, (wherein José Antonio Estudillo is claimant against the United States for "San Jacinto,") on file in my office.

In testimony whereof, I have hereunto set my hand and [Place of Seal.] affixed the seal of said court, at Los Angeles, this the 17th day of December, A. D. 1855.

C. E. CARR, *Cl'k*.

Filed Dec. 17th, 1855.

C. E. CARR, *Cl'k*.

Testimony of Daniel Sexton.

THOS. W. SUTHERLAND, guard'n, appellant,
vs.
THE UNITED STATES.
} No. 82.

Testimony of Daniel Sexton, a witness on the part of the appellant; was sworn, and testified in open court as follows:

Ques. What is your name, age, and place of residence?

Ans. My name is Daniel Sexton; age 37; residence mission of San Gabriel.

Ques. Where were you living during and at the time hostilities broke out between the United States and Mexico; were you acquainted with Miguel Pedrorena, and what part did he take in the war? (Objected to by the U. S. attorney.)

Ans. I was living in the town of Los Angeles; I was acquainted with Miguel Pedrorena. He joined the Americans.

Ques. Was not, in 1844 and 1845, the rancho of San Jacinto considered frontier and exposed to the Indians?

Ans. It was.

Cross-examined by U. S. Attorney.

Ques. How long have you known Miguel Pedrorena?

Ans. I have known him since the year 1842.

Ques. Do you know the country or place of his birth?

Ans. He has frequently told me that he was a Spaniard by birth. He was born in England under the flag of Spain.

Ques. Do you know about what time he came to California?

Ans. I do not.

Ques. Did you ever hear him say he was not a Mexican citizen?

Ans. I never heard him speak about his citizenship.

DANIEL SEXTON.

Sworn and subscribed before me this 17th of Dec., 1855.

C. E. CARR, *Cl'k.*

Filed Dec. 17th, 1855.

C. E. CARR, *Cl'k.*

Deposition of José Ma. Estudillo.

THOMAS W. SUTHERLAND, guard'n, appellant,
vs.
THE UNITED STATES, appellee. } No. 82.

Deposition of José Maria Estudillo, a witness for appellant, taken in open court on the trial of said cause, who being duly sworn, answers to questions of counsel on the several parties as follows:

(David Spence was sworn as interpreter.)

Ques. What is your name, age, and place of residence?

Ans. My name is José Maria Estudillo; my age is 24 years; my residence is in San Diego.

Ques. Are you acquainted with the tract of land called San Jacinto Viejo y Nuevo, one of which is claimed in this cause; and if so, state your means of knowledge.

Ans. I am; I went there frequently when my father was alive, and I have been living there for the last year.

Ques. Look upon the map marked C. E. C, No. 1, and state whether it is a correct representation of the said tract of land of which you say you have knowledge? (Objected to by the U. S. Att'y and allowed by the court.)

Ans. It is.

Ques. Look upon it, and state where is the point called "Ojo de agua de San Miguelito," the mountain of the agua Caliente, and the house of the rancho of San Jacinto Viejo. (Objected to by the U. S. attorney.)

Ans. The "Ojo de Agua" is at the point marked on the map "Santa Magonta," which I have known by the name of San Miguelito; the mountain of "Agua Caliente" is situated where it appears marked on the map Milpa de agua Caliente; the house of San Jacinto Viejo is where it is marked Sanja de Agua on the map.

Ques. Look upon the map contained in the transcript, and state if you recognise the exterior lines thereon, together with the names of the adjoining tracts of land, as a correct delineation of the said tracts of land.

Ans. I know them to be correct.

Ques. Look upon the map and mark in pencil the points called "Ojo de agua de San Migueito," the Sierra de agua Caliente, and the old house of "San Jacinto Viejo."

Ans. I have marked them Nos. 1, 2 & 3, respectively.

Ques. Where does the road from Temacula come into the tract of San Jacinto Viejo.

Ans. It comes in by San Miguelito.

Ques. How near is the Ojo de San Miguelito to the said road?

Ans. About 5 or 6 varas from the aguagite on the left side.

Ques. What do the dotted lines contained on the map in the transcript, in front of the words "Juapa" and "San Gorgonia," represent as to the character of the land?

Ans. The dotted lines represent mountains and hills.

Ques. Do you know anything about the occupation of San Jacinto Nuevo by Miguel de Pedrorena; if so, state what you know.

Ans. In 1844, more or less, on the place called the Corral de Pilares, there was a small house, of the kind called jacal, where they had a dairy, which I understood had been there for a short time previously; and during the time my father was there it was *it was* always occupied by cattle of Don Miguel de Pedrorena.

Ques. Examine the diagram marked C. E. C, No. 1, and state whether its exterior lines are similar to those contained in the map contained in the espediente in the transcript. (Objected to by U. S. Dist. Att'y.)

Ans. I believe them to be the same.

(The map here offered in evidence and *and* objected by the United States attorney. Objection overruled by the court.)

Cross-examined by U. S. Att'y.

Ques. What is your profession or occupation?

Ans. I am a farmer.

Ques. How long have you lived on the ranch of San Jacinto Viejo?

Ans. Since my interests have been there, I have lived there about one year, going and coming; but whilst my father was alive I went there once or twice; I was then small.

Ques. How long have you lived there continuously?

Ans. Sometimes one, sometimes two months at a time.

Ques. What interests have you there?

Ans. There are cattle there belonging to the succession of my father, to Rosario de Aguire, and to myself.

Ques. How far is it from San Jacinto Viejo, marked on the map in the transcript, to San Bernadino, marked on the map in the transcript?

Ans. By the road it is about 8 or 9 leagues; in a straight line it may be four or five.

Ques. How far is it from San Jacinto Viejo to the place called Juapa, as marked in said map?

Ans. By the road it may be about 11 or 12 leagues, and I suppose in a straight line it may be something less.

Ques. How far is it from San Gorgonia, marked on said map, to Juapa, marked on said map?

Ans. I never was in the sierra of San Gorgonia, and do not know.

Ques. Was San Jacinto ever occupied? If yea, state when, by whom, and in what manner.

Ans. It was occupied by my father, by Miguel Pedrorena, and J. A. Aguirre, so that all the land would be occupied with cattle, I think in 1844.

Ques. Is this the only manner in which the place of San Jacinto Nuevo was occupied?

Ans. As I have stated before, there was a small house and dairy on the place.

Ques. Who built that house and dairy?

Ans. My father ordered his servants to build the house.

Ques. How far is that house from San Jacinto Viejo?

Ans. The house does not exist now; it was about a league and a half or two leagues.

Ques. Who occupied that house?

Ans. Vaqueros who were under the care of my father, but paid by Pedrorena and Aguirre.

Ques. When was that house built?

Ans. I do not remember, but think it was in 1845.

Ques. Did you ever see Pedrorena on that ranch?

Ans. I never saw him.

Ques. Had Miguel Pedrorena any cattle on the place of San Jacinto Nuevo at any time? If yea, when were the first placed there, and by whom?

Ans. Yes; they were placed there by my father about the years 1844 or 1845.

Ques. How many had he there at that time?

Ans. More than a thousand head.

Ques. How do you know that the map in the transcript is a correct delineation of the place called San Jacinto Nuevo?

Ans. I know it by the names of the different points marked in the map.

Ques. How do you know that the points or places, as delineated in the map, marked "C. E. C, No. 1," are truly and correctly laid down in said map?

Ans. With respect to the exactness of the map I cannot say, but I know all the points and places laid down in it.

Ques. How do you know that the dotted lines in the map, in the transcript in front of the words "Juapa" and "San Gorgonia," represent mountains and hills?

Ans. Because I know the mountains and I know the lands; I have not been on the mountains of San Gorgonia; I have seen them from a distance.

Ques. Do you know when the map marked C. E. C., No. 1, was made?

Ans. I do not; I first saw it about a year ago.

Re-examined in chief.

Ques. In what part of San Jacinto Nuevo was the Corral del Pillar situated?

Ans. I have marked No. 4 in pencil on the map in the transcript.

Ques. Are you acquainted with the place called the Potrero, claimed in this cause; if so, describe the same, its extent, and how bounded? (Question objected to, as to its extent and boundary, by the U. S. attorney.)

Ans. Yes, I am; it is a large plain, surrounded by rocky hills, and inside it has water and trees. It is about three leagues distant from the house of San Jacinto Viejo, and about one league in extent. The widest part is about half a league; other parts are narrower.

Ques. What are the names of the hills on each side of the Potrero?

Ans. One side are the hills of San Jacinto, on the other the lands of the Yumas or Cuchillas, and the other the mountain of San Gorgonia.

Ques. Was Miguel Pedrorena married; if so, when and to whom?

Ans. He was married in the year 1843, to my sister, Maria Antonio Estudillo.

Ques. Where was she born?

Ans. In San Diego, California.

JOSE MA. ESTUDILLO.

Sworn and subscribed before me, this 17th of Dec., 1855.

C. E. CARR, *Cl'k.*

Filed Dec. 17th, 1855. C. E. CARR, *Cl'k.*

Transcript of Judicial Possession from Case, Transcript No. 115, *H. H., No.* 1.

In the United States District Court, in and for the southern district of California.

THOMAS W. SUTHERLAND, guardian, etc., appellant,
vs.
THE UNITED STATES, appellees. } Case No. 82.

Transcript of Judicial Possession from Case No. 223, Transcript No. 115, "H. H., No. 1."

In the pueblo of San Diego, of Upper California, on the 26th of March, 1843, in compliance to the petition of Señor Don José Antonio

Estudillo, resident of this demarcation, to the end that I should give him the corresponding possession of the tract and rancho called San Jacinto, granted by the government of this department, the title of which he presented with the said petition, I passed with the assisting witnesses to the aforesaid tract, and proceeded to give the aforesaid possession, after previous citation to adjoining owners, it being regulated by the aforementioned title, which was conferred upon him by the most excellent señor governor ad interim of the department, Don Manuel Jimeno, with date 21st of December, 1842. I, the citizen José Antonio Osuna, supplemental justice of the peace of this demarcation, so provided, ordered, and signed before the aforesaid assisting witnesses, with whom I act as a delegate, on this common paper, for want of the proper stamped. According to law, I attest.

JOSE MARIA ORZUNA.

Ass't: Jose Lopez,
Ass't: Jose Maria Alvarado.

At the rancho of San Jacinto, on the 26th of March, 1843, I, the same judge, for the execution of these proceedings, appointed two men cord-bearers, to whom I made known their appointment, which they accepted, under oath which they took, offering to fulfil their charge faithfully; which I authenticate and sign with the witnesses of my assistance, according to law.

JOSE MARIA ORSUNA.

Ass't: Jose Lopez.
Ass't: Jose Ma. Alvarado.

On the same day, month and year, being at the rancho of San Jacinto, for the object of completing the measurements and possession to Don José Antonio Estudillo, of the tract called San Jacinto, all the requirements of law being previously complied with, and the assisting witnesses and cord-bearers being before me, I caused to be measured a cord which contained one hundred varas, and at the extremities (had) bundles of sticks. After observation and calculation, at my direction the cord was run from the spring of San Miguelito, the boundary of Temecula, course southerly, where were measured four leagues, as far as the house of said tract, there being three cords short, which are added towards the sierra of the hot spring; it was continued, course N. W., where there were measured four leagues, as far as the converging passage towards Jurapa; it was continued towards the east, where there were measured three leagues and a half, which terminated at the angle of , where the landmarks were fixed; and there having been no objections manifested that the measurements should be suspended, the measurements of the rancho of San Jacinto were concluded to the satisfaction of the party interested, whom I directed to place the respective landmarks at the proper points, and it remained understood, they having been marked, in token of possession, which I

authenticate and subscribe with the assisting witnesses, according to law. Attest:

JOSE MA. OSUNA.

Ass't: JOSE LOPEZ,
Ass't: JOSE MA. ALVARADO.

On the aforesaid day, month and year, the notes of proceedings of this espediente, pertaining to the rancho of San Jacinto, being concluded, let a testimonial thereof be given to Don José Antonio Estudillo, the interested party in them, for his security and the uses which may suit him. I, the citizen José Maria Osuna, supplemental justice of this demarcation, so order, and subscribe with the assisting witnesses, according to law. I attest:

JOSE MA. OSUNA.

Ass't: JOSE LOPEZ,
Ass't: JOSE MA. ALVARADO.

On the same day, month and year, the testimonial referred to in the preceding order was issued to the party in interest, and in attestation I made my scroll.

Filed Dec. 18th, 1855.

C. E. CARR, *Cl'k.*

Translation of Approval of Departmental Assembly.

In the United States District in and for the southern district of California.

THOMAS W. SUTHERLAND, guardian, &c., appellant,
vs.
THE UNITED STATES, appellees.

Case No. 82. Transcript 263. "San Jacinto Nuevo y Potrero."

Translation of testimonial of approval of departmental assembly, see page 17 of transcript.

Narciso Botello, deputy secretary of the excellent departmental assembly of California.

I certify, that in session of this day the most excellent assembly approved the grant made by the departmental government in favor of Don Miguel de Pedrorena, of the tract known as San Jacinto Nuevo, including its potrero, to the extent of what the map shows, which was attached to the espediente, according to the title issued for his benefit and that of his family, with date the 14th of January of the present year; provided, it does not exceed the maximum prescribed by law; and in order that the interested party can apply to the señor governor for the proper title of approbation, I issue the present, in compliance with the resolution of the said excellent assembly, at the city of Los Angeles, July 8th, 1846.

NARCISO BOTELLO.

Filed Dec. 18th, 1855. C. E. CARR, *Cl'k.*

Decree.

In the District Court of the United States for the southern district of California.

THOMAS W. SUTHERLAND, guardian of Miguel, Victoria, Ysabel and Helena, minor children of Miguel Pedrorena, deceased, and of Maria Antonio Estudillo, his wife, appellant,
vs.
THE UNITED STATES, appellees.
} Case No. 82. "San Jacinto Nuevo y Potrero."

This cause coming on to be heard, to appeal from the final decision of the United States board of land commissioners to ascertain and settle the private land claims in the State of California, under an act of Congress approved March 3d, 1851, on a transcript of the proceedings and decision of said board, and of the papers and evidence upon which said decision was founded, and it appearing to the court that said transcript has been duly filed, according to law, and counsel for the respective parties having been heard, it is ordered, adjudged and decreed, that the said decision of the said board be, and the same hereby is, reversed; and it is further adjudged and decreed, that the claim of the above named appellant is good and valid, and that the same be confirmed to his said wards as follows, to wit:

The lands hereby confirmed are the sobrante or surplus remaining within the boundaries of the tract called San Jacinto, as the same are described and represented in the map contained in the espediente and referred to in the grant, over and above certain lands granted to José Antonio Estudillo within the same boundaries, to the extent of eleven square leagues; and if the said sobrante or surplus within said boundaries shall be less than eleven square leagues, then confirmation is hereby made of such less quantity; the measurements of the lands hereby confirmed to be commenced from the line of said Estudillo, as fixed by the act of judicial possession to him, to which reference is hereby made.

ISAAC S. K. OGIER.

Filed February 14th, 1856. C. E. CARR, *Cl'k.*

Appeal to Supreme Court.

In the District Court of the United States for the southern district of California.—Los Angeles, December Term, 1855.

THOS. W. SUTHERLAND, guardian, appellee,
ads.
THE UNITED STATES, appellants.
} No. 82.—(No. 263 of Transcript.)

On appeal from the United States Land Com'n.

On motion of P. Ord, attorney of the United States for the southern district of California, it is hereby ordered by the court that an appeal be

authenticate and subscribe with the assisting witnesses, according to law. Attest:

JOSE MA. OSUNA.

Ass't: JOSE LOPEZ,
Ass't: JOSE MA. ALVARADO.

On the aforesaid day, month and year, the notes of proceedings of this espediente, pertaining to the rancho of San Jacinto, being concluded, let a testimonial thereof be given to Don José Antonio Estudillo, the interested party in them, for his security and the uses which may suit him. I, the citizen José Maria Osuna, supplemental justice of this demarcation, so order, and subscribe with the assisting witnesses, according to law. I attest:

JOSE MA. OSUNA.

Ass't: JOSE LOPEZ,
Ass't: JOSE MA. ALVARADO.

On the same day, month and year, the testimonial referred to in the preceding order was issued to the party in interest, and in attestation I made my scroll.

Filed Dec. 18th, 1855.

C. E. CARR, *Cl'k.*

Translation of Approval of Departmental Assembly.

In the United States District in and for the southern district of California.

THOMAS W. SUTHERLAND, guardian, &c., appellant,
vs.
THE UNITED STATES, appellees.

Case No. 82. Transcript 263. "San Jacinto Nuevo y Potrero."

Translation of testimonial of approval of departmental assembly, see page 17 of transcript.

Narciso Botello, deputy secretary of the excellent departmental assembly of California.

I certify, that in session of this day the most excellent assembly approved the grant made by the departmental government in favor of Don Miguel de Pedrorena, of the tract known as San Jacinto Nuevo, including its potrero, to the extent of what the map shows, which was attached to the espediente, according to the title issued for his benefit and that of his family, with date the 14th of January of the present year; provided, it does not exceed the maximum prescribed by law; and in order that the interested party can apply to the señor governor for the proper title of approbation, I issue the present, in compliance with the resolution of the said excellent assembly, at the city of Los Angeles, July 8th, 1846.

NARCISO BOTELLO.

Filed Dec. 18th, 1855. C. E. CARR, *Cl'k.*

Decree.

In the District Court of the United States for the southern district of California.

THOMAS W. SUTHERLAND, guardian of Miguel, Victoria, Ysabel and Helena, minor children of Miguel Pedrorena, deceased, and of Maria Antonio Estudillo, his wife, appellant,
vs.
THE UNITED STATES, appellees.
} Case No. 82. "San Jacinto Nuevo y Potrero."

This cause coming on to be heard, to appeal from the final decision of the United States board of land commissioners to ascertain and settle the private land claims in the State of California, under an act of Congress approved March 3d, 1851, on a transcript of the proceedings and decision of said board, and of the papers and evidence upon which said decision was founded, and it appearing to the court that said transcript has been duly filed, according to law, and counsel for the respective parties having been heard, it is ordered, adjudged and decreed, that the said decision of the said board be, and the same hereby is, reversed; and it is further adjudged and decreed, that the claim of the above named appellant is good and valid, and that the same be confirmed to his said wards as follows, to wit:

The lands hereby confirmed are the sobrante or surplus remaining within the boundaries of the tract called San Jacinto, as the same are described and represented in the map contained in the espediente and referred to in the grant, over and above certain lands granted to José Antonio Estudillo within the same boundaries, to the extent of eleven square leagues; and if the said sobrante or surplus within said boundaries shall be less than eleven square leagues, then confirmation is hereby made of such less quantity; the measurements of the lands hereby confirmed to be commenced from the line of said Estudillo, as fixed by the act of judicial possession to him, to which reference is hereby made.

ISAAC S. K. OGIER.

Filed February 14th, 1856. C. E. CARR, *Cl'k.*

Appeal to Supreme Court.

In the District Court of the United States for the southern district of California.—Los Angeles, December Term, 1855.

THOS. W. SUTHERLAND, guardian, appellee,
ads.
THE UNITED STATES, appellants.
} No. 82.—(No. 263 of Transcript.)

On appeal from the United States Land Com'n.

On motion of P. Ord, attorney of the United States for the southern district of California, it is hereby ordered by the court that an appeal be

52

Transcript of the proceedings in case No. 599—*Maria Josefa Soberanes, claimant*, vs. *The United States, defendant—for the place named "Los Coches."*

OFFICE OF THE BOARD OF COMMISSIONERS
To ascertain and settle the private land claims in the State of Cal'a.

Be it remembered, that on this eighteenth day of Feb'y, anno Domini one thousand eight hundred and fifty-three, before the commissioners to ascertain and settle the private land claims in the State of California, sitting as a board in the city of San Francisco, in the State aforesaid, in the United States of America, the following proceedings were had, to wit:

The petition of Maria Josefa Soberanes, for the place named "Los Coches," was presented and ordered to be filed and docketed with No. 599, and is as follows, to wit:

(Vide page 3 of this Transcript.)

Upon which the following subsequent proceedings were had in their chronological order, to wit:

SAN FRANCISCO, *Feb. 19th*, 1853.

In case No. 599, Josefa Soberanes, for the place named "Los Coches," the deposition of Wm. A. Richardson, a witness on behalf of the claimant, taken before Commissioner Hiland Hall, with document marked H. H, No. 1, annexed thereto, was filed.

(Vide page 5 of this Transcript.)

SAN FRANCISCO, *Aug. 25th*, 1853.

In the same case, the deposition of José Rafael Gonzales, a witness in behalf of the claimant, taken before Commissioner Alpheus Felch, was filed.

(Vide page 4 of this Transcript.)

SAN FRANCISCO, *November* 1, 1853.

In the same case, the deposition of Feliciana Soberanes, a witness in behalf of the claimant, taken before Commissioner Alpheus Felch, was filed.

(Vide page 6 of this Transcript.)

SAN FRANCISCO, *May 2d*, 1854.

Case No. 599 was ordered to be placed at the foot of the calendar of the 1st class cases on the trial docket.

SAN FRANCISCO, *Aug't* 4, 1854.

Case No. 599 was submitted on briefs and taken under advisement.

SAN FRANCISCO, *Sept'r* 26, 1854.

In the same case, Commissioner R. Aug. Thompson delivered the opinion of the board rejecting the claim.

(Vide page 31 of this Transcript.)

And the following order was made, to wit:

(Vide page 33 of this Transcript.)

Petition.

To the U. S. Land Commission for the ascertaining and settling of private Land Claims in the State of California:

The petition of Doña Maria Josefa Soberanez respectfully showeth to your honorable board, that on the 24th of May, 1841, she applied to the government of California for the grant of a tract of land, a description of which will be found hereafter, and that such petition was *refused* to the prefect of the first district to report thereon; that Simeon Castro, prefect of said district at that time, reported on the 29th of May, 1841, that the land petitioned for was vacant and liable to be granted.

That Juan B. Alvarado thereupon, to wit, on the 14th of June, 1841, by virtue of the authority vested in him as constitutional governor of California, declared your petitioner the lawful owner of said land, and directed the Secretary of State to have the proper documents executed; that a formal grant preferring title upon your petitioner issued on the 14th of June, 1841.

That on the 7th of December, 1843, your petitioner, represented by Feliciana Sobranez, her attorney in part, obtained the juridical possession of the lands so granted to her of the proper local magistrate, with all the legal forms and requisites of the Mexican laws.

And your petitioner further saith, that all the documents above referred to as petitioner's references report *concession*; a certified copy of the original grant and map are on file in the archives of California, and in possession of the U. S. surveyor general for the State of California, and that certified copies and translations thereof are herewith submitted to your honor's inspection, and prayed to be made a part of this case; that the original grant, together with the documents of juridical possession, are in the hands of your petitioner, and ready to be exhibited in evidence whenever required.

And your petitioner further alleges, that the land prayed for lies in the present county of Monterey, forms a part of the estate of the ex-mission of Solidad, is known by the name of rancho de Los Coches, and described as follows: bounded by the Rio Madre, by the rancho of Salvador Espuinge, and by the rancho of Joaquin de Torre, containing two and a half Spanish square leagues, more or less.

And your petitioner further states, that since the time of obtaining such grant, she has been in the quiet and peaceable possession of said land; has always exercised full and undisputed ownership over the same, and is not aware of the existence of any title paramount or superior to

her own. She therefore claims to be the owner of said land, and prays that your honor will confirm and validate her claim and title thereto. CLARKE, TAYLOR & BUKH,
Attorneys for petitioner.

Filed in office, February 18th, 1853.
GEO. FISHER, *Sec'y.*

Recorded in Vol. 1 of petitions, pages 585, 586.
GEO. FISHER, *Sec'y.*

Deposition of José Rafael Gonzalez.

OFFICE OF THE COMMISSIONERS
OF CALIFORNIA LAND CLAIMS, SAN FRANCISCO.

This day, before Commissioner Alpheus Felch, came José Rafael Gonzalez, a witness in behalf of claimant, Maria Josefa Soberanes, case No. 599, and after—

Questions by Mr. Clarke, Attorney for the Claimant.

1 question. What is your name, age, and place of residence?

Answer. My name is José Rafael Gonzalez, my age sixty-one years, and reside in San José, Santa Clara county, and State of California.

2 question. State what you know of the possession, improvements, and occupation of the Rancho los Coches, claimed in this case?

Answer. I have known the rancho more than fourteen years last past; it is adjoining the mission of Solidad; it was granted to Maria Josefa Soberanes, daughter of Feliciana Soberanes; she was the wife of an Englishman, generally called William the red, on account of his red hair; she has occupied the land with cattle and horses from the time of the grant, but on account of the hostilities of the Indians was obliged to live in the mission; they had sometimes fifty or sixty horses, and sometimes none at all, on account of the depredations of the Indians; they raised on the land wheat, barley, corn, beans, melons, and other vegetables for the market at Monterey; she is still in occupation of the land, and cultivates it; they have from three to four hundred head of cattle on the rancho.

Questions by Mr. Greenhow, Associate Law Agent.

1st question. Is the land ten leagues from the sea?

Answer. It is more than fourteen leagues.

JOSE R. GONZALEZ.

Subscribed and sworn to before me at San Francisco, this 25th day of August, 1853. ALPHEUS FELCH,
Commissioner.

Filed in office, August 25th, 1853. GEO. FISHER, *Sec'y.*

Recorded in evidence B, vol. 3, page 87.
GEO. FISHER, *Sec'y.*

Deposition of Wm. A. Richardson.

SAN FRANCISCO, *Feb'y 19th*, 1853.

On this day, before Commissioner Hiland Hall, came William A. Richardson, witness in behalf of the claimant, Ma. Josefa Soberanes, petition No. 599, and was duly sworn, his evidence being given in English. The U. S. associate law agent was present.

Questions by Claimant.

Question 1st. What is your age, name, and place of residence?

Answer. My name is Wm. A. Richardson, my age fifty-seven years, and reside in my rancho of , in Marin county.

Question 2d. Look at the bundle of attached documents now shown, marked, &c., &c., No. 1, and hereto attached, purporting to be a grant from John B. Alvarado to the claimant, followed by the record of juridical possession given by F. Gonzalez. State what you know in regard to the signatures upon said documents, and whether the same are genuine.

Answer. I am well acquainted with the signatures of John B. Alverado , having often seen them write; their signatures, wherever they appear upon said documents, are genuine.

WILLIAM A. RICHARDSON.

Sworn and subscribed before me,

HILAND HALL, *Com'r.*

Filed in office, February 19th, 1853.

GEO. FISHER, *Sec'y.*

Recorded in Evidence B, vol. 2, page 616.

GEO. FISHER, *Sec'y.*

Deposition of Wm. Sobranez.

OFFICE OF THE BOARD OF COMMISSIONERS, &C., &C.

This day, before Commissioner Alpheus Felch, came Feliciana Sobranez, a witness in behalf of claimant, Ma. Josefa Sobrenez, No. 599, who, after being duly sworn, deposed as follows:

Questions by Mr. Clarke, Attorney for Claimant.

Question 1st. What *are* your name, age, and place of residence?

Answer. My name is Felicinna Sobranez; my age is sixty-five years; I reside in Monterey county, California.

2 question. Do you know the rancho called Los Cuchas, in Monterey county; if yea, what do you know of Josefa Sobranez, the claimant, having occupied and improved it?

Answer. I know the rancho; it is situated in the county of Monterey. I know that said claimant, Josefa Sobranez has occupied the rancho since 1841; in that year she built a house on it, in which she has lived with her family from that time to the present, and still lives

in it; she built corrals and fences on it, and cultivated portions of the land, and stocked it with horses and cattle. These several improvements were made on the land in 1841; she has made some improvements since that time, the cattle have increased, and the quantity of land cultivated has also been increased.

FELICIANA SOBRANEZ.

Mr. Greenhow, associate law agent, was present at the taking of this deposition, but propounded no interrogatories to the witness.

Subscribed and sworn before me this 8th day of November, 1853.

ALPHEUS FELCH, *Com'r.*

Filed in office, November 8th, 1853.

GEO. FISHER, *Sec'y.*

[1 S. D. K.]

Jurisdicion de Monterey.—Año de 1841.

Espediente promovido por D'a Maria Josefa Soberanes, en solicitud del parage conocido con el nombre de los "Coches."

(239.)

[2 S. D. K.]

Sello Tercero, Dos Reales.

Habilitado provisionalmente por la aduana maritima del puerto de Monterey, en el departamento de las Californias, para los años de mil ochocientos cuarenta y uno.

XIMENO. ANTONIO MARIA OSIO.

[SEAL.]

Señor Prefecto del 1st Distrito:

Feliciana Soberanes, ciudadano Mejicano, ante la recta justificacion de V. S. y a nombre de mi hija, Ma. Josefa Jarezco, y digo que hallandome actualm'te con el no. de hescientos reces y no teniendo uno propiedad donde colocarlos a la bondad de V. S. apin de que me conceda el parage ó rancho nombrado de los Coches segun aparace del diseño que tenga el donor de acompañar. Por tanto, á V. S. pido y suplico se me conceda la gracia que solicito y la justicia que impetro, juro no ser de malicia y lo necessario, &c.

Monterey, Mayo 24, de 1841.

Por mi hija Ma. Josefa, FELICIANA SOBERANES.

[3 S. D. K.] Ex'mo S'or:

En la presente instancia solicita D. Feliciana Sobrenez se conceda pr. V. E. à su hija Ja. Ma. Josefa el terreno conocido con el nombre de los Coches pertenciaente al establicimiento de la Soledad. Como el pretendiente es el adm'or de dicho establicimiento no se la he pasado a informe y pa. esta misma causa, la prefectiora de mi cargo sujeta este asuato à la sup'r deliveracion de V. S.

JOSE F. CASTRO.

Monterey, Mayo, de 1841.

Informe el juez de paz de esta municipalidad como es de costumbre con los datos que puden ad quevir sobre este pretencion.

ALVARADO.

[4 S. D. K.] Sello Tercero, Dos Reales.

Habilitado provisionalm'te por la aduana maritima del puerto de Monterey, en el departamente de las Californias, para los años de de mil ochocientos cuarenta y mil ochocientos cuarenta y uno.

JIMENO. ANTONIO MA. OSIO.

[*For map see original, page* 9.]

[SEAL.]

Ex'mo S'or:

El terreno que se pretende en esta solicitud, por Don Feliciana Soberanes á nombre de su hija Maria Josefa, no pretenece á particular ni corporacion alguna y se haya de ocupado ó baldio; por lo que soy de parecer que se la conseda á la espresada s'ra de jemdolo á la deliveracion de V. S.

Monterey, Mayo 29, de 1841. SIMEON CASTRO.

[5 S. D. K.] MONTEREY, 14 *de Junio, de* 1841.

Vista la peticion con ql. da principio este espediente el informe del s'or prefecto del 1a distrito, y el del juez de paz de esta municipilidad, con todo lo que se tuvo presente y ver convino de conformidad con las leyes y reglamentos de la materia declaro á D'na Ma. Josefa Soberanes, dueño en propiedad del parage conocido con el nombre de la Coches, colindante con el rio, con el rancho de Dn. Calletano Espinosa, y con el de Dn. Joaquin de la Torre. Estienda el despacho con las condiciones correspondientes y dirijase este espediente á la ex'ma junta departamental para su aprovacion. El S'or Dn. Juan Bautista Alvarado, gobernador constitucional del departamento de las Californias, asi lo mando, decreto y firmo.

[6 S. D. K.]

[*Here follows map.*]

[7 S. D. K.] Juan B. Alvarado, Gobernador Constitucional del Departamento de las Californias:

Por cuanto Dn. Maria Josefa Soberanes, ha pretendido para su beneficio, personal y el de su familia, el terreno, conocido con el nombre de

El
ei
d
g
d
a
b

So-
r ni
de
ver-

del
dad,
o las
anes,
ches,
con
di-
de-
rado,
nsi lo

del De-

su bene-

la Coche, colindante con el rio, con el rancho de Dn. Salvador Espinoza, y con el de Dn. Joaquin de la Torre, practicadas previamente las diligencias y averiguaciones consernientes, segun lo dispuesto por leyes y reglamentos, usanda de las facultades que me son conferidas á nombre de la nacion Mexicano, he venido en consederle el terreno mencionado declarandole la propiedad de el por las presentes letras y sugetandose á la aprovacion de la ex'ma junta departamental, y á las condiciones siguientes:

1a. Podrá sercarlo sin perjudicar las travesias caminos y servidumbres; lo disfrutará libre y esclusivamente destinandole al uso ó cultivo que mas le acomode, pero dentro de un año fabricará casa y estará habitada.

[8 S. D. K.] 2a. Solicitará del juez respectivo que de posecion juridica en virtud de este despacho por el cual se demarcaran, los linderos en cuyos limites pondra á mas de las mojoneras algunos arboles frutales, ó silvestres de alguna utilidad.

3a. El terreno de que se hace menciones de dos sitios de ganado mayor, poco mas ó menos segun esplica el diseño, que corre en el espediente.

4a. Si contraviniere á estas condiciones perdera su derecho al terreno y sera denunciable por otro.

En consecuencia mando que teniendose, por forme y valedero este titulo se tome razon de el en el libro á que corresponde, y se entregue al interesado, para su resguardo y demas fines.

Dado en Monterey, á quinse de Junio, de mil ochocientos cuarenta y uno.

JUAN BAUTISTA ALVARADO.
MANUEL JIMENO, *S'rio.*

OFFICE OF THE SURVEYOR GENERAL OF THE UNITED STATES FOR CALIFORNIA.

I, Samuel D. King, surveyor general of the United States for the State of California, and as such now having in my office, and under my custody, a portion of the archives of the former Spanish and Mexican territory or department of Upper California, do hereby certify that the eight preceding and hereunto attached pages of tracing paper, numbered from one to eight inclusive, and each of which is verified by my initials, (S. D. K.,) exhibit true and accurate copies of certain documents on file, and forming part of the said archives in this office.

In testimony whereof, I have hereunto signed my name officially, and affixed my private seal, (not having a seal of office,) at the city of San Francisco, Cal., the twenty-third day of December, 1852.

SAM'L D. KING,
Surveyor Gen'l, Cal'a.

Filed in office, Feb'y 18th, 1853.

GEO. FISHER, *Sec'y.*

Translation of Espediente.

Jurisdiction of Monterey—year 1841.

Record of proceedings at the instance of Doña Maria Josefa Soberanes, soliciting the location known by the name of Los Coches.

(239.)

S'or Prefect of the First District:

I, Feliciana Sobranez, a Mexican citizen, appear before your high justice, and in the name of my daughter, Maria Josefa Soberanez, that, possessing actually the number of three hundred head of cattle, and not having a property where to place it, I apply to your goodness for the purpose that you will grant me the location or rancho called De los Coches, as will appear in the sketch I have the honor to accompany. Therefore, I ask and pray you to grant me the favor solicited and the justice I implore. I swear there is no malice, and to what else necessary, &c.

Monterey, May 24th, 1841.

For my daughter, Maria Josefa,
FELICIANA SOBERANEZ.

Excellent Sir:

In the present instance, Dn. Feliciana Soberanez solicits that your excellency will grant her daughter, Doña Ma. Josefa, the tract of land known by the name of Los Coches, belonging to the establishment of Los Solidad. As the claimant is the administrator of said establishment, I have not sent it for a report; and for the same reason, the prefecture in my charge submits this matter to your excellency's superior deliberation.

JOSE F. CASTRO.

Monterey, May 26th, 1841.

The justice of the peace of this municipality will report, as is customary, with the date that he may be able to acquire about this solicitation.

ALVARADO.

Excellent Sir:

The lands claimed in this solicitation by Doña Feliciana Soberanez, in the name of her daughter, Maria Josefa, do not belong to anybody in particular, unto any corporation, and it is unoccupied or vacant. Wherefore, I am of opinion that it may be granted to the said lady, leaving it to your excellency's deliberation.

SIMEON CASTRO.

Monterey, May 29th, 1841.

MONTEREY, 14*th June*, 1841.

In view of the petition with which this espediente commences, the report of the prefect of the 1st district, and that of the justice of the

peace of this municipality, with every thing else to be borne in mind, and was to the purpose, in conformity with the laws and *and* regulations on the subject, I declare Doña Maria Josefa Soberanez owner, in her own right, of the location known by the name of La Coches, bordering on the river, in the rancho of de la Torre. Let the corresponding documents be issued, with the necessary conditions, and have this espediente directed to the excellent departmental assembly for its approbation.

Don Juan Bautista Alvarado, constitutional governor of the department of both Californias, thus did order, decree and sign.

JUAN B. ALVARADO,
Constitutional Governor of the Department of both Californias.

Whereas, Doña Maria Josefa Soberanez has solicited for her personal benefit, and that of her family, the land known by the name of La Cuchos, bordering on the river of the rancho of Dn. Salvador Espinosa, and that of Dn. Joaquin de la Torre; after having previously taken the necessary action and made the necessary instigations, according to the requirements of law and regulations, in exercise of the power vested in me in the name of the Mexican nation, I have concluded to grant her the mentioned land, declaring it her property by the present letters-patent, and subjecting it to the approbation of the excellent departmental assembly, and to the following conditions:

1st. She may *have* fence it, without prejudice to the crossings, roads and servitudes; she will enjoy it fully and exclusively, appropriating it to the use or custom that best may suit her; but within a year she will build a house, to be inhabited.

2d. She will solicit of the respective judge to give her juridical possession, in virtue of this document, by whom the boundaries are to be marked out, in the extremities of which he will put, besides the landmarks, some fruit trees or wild ones of some utility.

3d. The land mentioned is two square (sitios de canada mayor), a little more or less, as is shown in the sketch attached to the espediente.

4th. If she should violate these conditions, she will lose her right to the land and may be denounced by another party.

Consequently, in order that this title being held firm and valid, it be entered in the respective book, and delivered to the interested party for his security and other purposes.

Given in Monterey, on the 15th of June, 1841.

JUAN BAUTISTA ALVARADO.
MANUEL JIMENO, *Secretary.*

Filed in office, September 13th, 1853.

GEO. FISHER, *Secretary.*

Año de 1843.

Testimonio del espediente y titulo original del rancho nombrado "Los Coches," constante de poco mas de dos sitios de ganado mayor, propio de Da. Ma. Josefa Soberanez, vecino de este puerto de Monterey.

H.H, No. 1.

Sello P., Seis Pesos.

Habilitado provisionalmente por la aduana maritima de Monterey, para los años de 1839 y 1840.

ALVARADO. ANTONIO MARIA OSIO.

Volga pa. los años 1841 y 1842.

ANTONIO MARIA OSIO.

[SEAL.]

Juan B. Alvarado, Gobernador Constitucional del Departamento de las Californias.

Por cuanto D'n Maria Josefa Soberanez ha pretendido para su beneficio personal, y el de su familia, el parage conocido con el nombre de Los Coches, colindante con el rio, con el rancho de Dn. Salvador Espinosa, y con el de Dn. Joaquin de la Torre; practicadas previamente las diligencias y averiguaciones consernientes, segun lo dispuesto por leyes y reglamentos usando de las facultades que me con conferidas á nombre de la nacion Mejicana. Le venido en concederle el terreno mencionado, declarandole la propiedad de el por las presentes letras sugetandose à la aprovacion de la ex'ma junta departamental, y à las condiciones siguientes:

1a. Podra sercarlo sin perjudicar las travecias, caminos y servidumbres, lo disfrutara libre y esclusivamente destinandolo al uso ó cultivo que mas le acomode, pero dentro de un año fabricar à casa y estara habitada.

2a. Solicitara del juez respectivo que la de posecion juridica en virtud de este despacho, por el cual se demarcaran los linderos en cuyos limites pondra à mas de las mojoneras algunos arboles frutales, ò silvestres de alguno utilidad.

3a. El terreno de que se hace menciones de dos sitios de ganado mayor, segun esplica el deciño que corre en el espediente. El juez que diere la posecion lo harà medir conforme a ordenanza que dando el sobrante que resulte à la nacion para los usos convenientes.

[*For map see original, page* 18.]

43

ᠪᠣᠯᠪᠠᠰᠤ ᠨᠢᠭᠡᠨᠳᠡ ᠬᠡᠯᠡᠪᠡᠷᠢ ᠪᠠᠢᠭᠤᠯᠤᠭᠰᠠᠨ ᠪᠠᠢᠳᠠᠯ

4a. Si contraviniere à estas condiciones perdera su derecho al terreno y ser a denunciable por otro.

En consecuencia mando que teniendose por forme y valedero este titulo se tome razon de el en el libro a que corresponde y al entrega à la interesado, para su resguardo y demas fines.

Dado en Monterey, à catorce de Junio, de mil ochocientos cuarenta y uno.

JUAN B. ALVARADO.
MANUEL JIMENO, *S'rio.*

Queda tomada razon de este despacho en el libro de acientos sobre adjudicaciones de terreno. Valdios a $4 V's.

JIMENO.

El ex'mo s'r gobernador dispone se tome razon de este titulo, en la prefectura del 1a distrito.

JIMENO.

Tome se razon. ESTRADA.

Queda tomada razon de este sup'r titulo en el cuaderno respectivo de esta oficina en la foja 7, frente y vuelta.

Monterey, Julio 10, de 1842.

JOSE MARIA CUDTARÑARES,
Sc'rio Inte.

Sello Cuarto, Dos Reales.

Habilitado provisionalmente por la aduana maritima del puerto de Monterey, en el departamento de las Californias, para el año de mil ochocientos cuarenta y tres.

MICHELTORENO. MANUEL CASTANARES.

[SEAL.]

El que subscribe secretario del gob'r del departamento de las Californias, certifica, que el diseño que se demuestra à la vuelta esignar el original que existe en la s'ria de mi cargo.

Monterey, 5 de Junio, de mil ochocientos cuarenta-tres.

MAN'L JIMENO.

Sello Cuarto, Dos Reales.

Habilitado provicionalmente por la aduana maritima del puerto de Monterey, en el departamento de las Californias, para el año de mil ochocientos cuarenta y tres.

MICHELTORENO. PABLO DE LA GUERRA.

[SEAL.]

To Ma. Josefa Soberanes, vecina de este puerto:

Doy poder amplio cumplido y bastante, tanto cuando en año; se requiera y su necessario, à D. Feliciana Soberanes para que en mi nombre, y el de mis heredero y en secores, precencio, ó reciba la posecion

juridica que al juez de mi residencia he solicitado el que se ha serbido designar por el auto otorgado pr. mi pa. la ejecticion el dia siete del presente mes y año, y para la divida constancia lo formo en Monterey, a las dos dias de D'bre, de mil ochocientos cuarenta y tres.

MARIA JOSEFA SOBERANES DE RICHARDSON.

Sello Tercero, Un Peso.

Habilitado provicionalmente por la aduana maritima del puerto de Monterey, en el departamento de las Californias, para el año de mil ochocientos cuarenta y tres.

MICHELTORENA. PABLO DE LA GUERRA.

[SEAL.]

S'or Juez de Paz suplente:

Ma. Josefa Soberanes, vecino de este por Pante con el dendo respeto hace presente: Que habiendo obtenido del goberno de este departamento el terreno conocido con el nombre de los Coches, como consta por el titulo espedido á mi favor con fecha catorce de Junio, de mil ochocientos cuarenta y uno, y el diseño que á el adjunto se halla; y faltendome solamente el posecion juridica que en el articulo dos de d'ho titulo mande se me de, para contrarlo con propiedad en todos los requisitos legaler he de merecer de V. se sirva darmela, dignandose señalmente el dia que tenga a bien designar.

P. ya V. suplico rendidamente provea en me solicitud a favour, en lo que recibire gracia y merced, jurando lo necesario.

Monterey, De're 2, de 1843.

A ruego de la interesada.

FELICIANA SOBERANES.

MONTEREY, 2 *de D'bre, de* 1842.

Por presentada y admitida, procedace por mi el presente juez de paz á la medicion señalamiento de linderos y posecion juridica, que solicita el interesado en esta instancia de siguandose parage cutarlo el dia siete delpresente mes, pa. lo que de (estenderan) citaran, con boletas de conformidad a los colindantes. Asi yo el juez de paz, de este punto lo decrete, mandé y forme, con los de asistencia.

THEODORE GONZALEZ.

Ass'a JOSE MA. JUTIERREZ.
FRANCO RICO.

En la misma f'ha se libraron las boletas ql. se manden en el auto anterior y para constancia lo anoto y rubrico, con los testigos de asistencia.

Ass'a: JOSE MA. GUTIERREZ.

RANCHO DE LOS COCHES, 7 *de D'bre, de* 1843.

Presentes los C. C. Feliciana Soberanes y Estevan de la Torre, ambos colindantes nombre por medidores, á los S. S. Carlos Espinosa

966

y Andres Juares, los que procederan á la midicion dicha seña camiento de linderos, y posecion de la Señora Da. Ma. Josefa Soberanes, quien nombre de apoderado para representar su misma persona á Da. Feliciana Soberanes, y previa acceptacion, juvan procederan al des empeño de su encargo, asi yo el juez de paz constitucional, suplente de esta demarcacion, lo decrete, mande y forme, con los de asistencia.

TEODORA GONZALEZ,
JOSE MA. GUTIERREZ.

De ass'a: JOSE MA. GUTIERREZ,
FRANC'O RICO.

En la misma f'ha presentes los C. C. Carlos Espinosa, y Andres Juares, se les notifico el auto de su nombrano P. y de el entenidos dijeron lo oyen que acceptaban, y aceptaran, jurando por Dios nuestro Señor, y la señal de la Cruz, (que pulerseron) conforme á su le al saber, y entender de sempeñarlo sin hacer fraude alguno contra ninguna persona formando conmigo, y los de asistencia.

TEODORO GONZALEZ.

D. ass'a: JOSE MA. GUTIERREZ,
FRANC'O RICO.

Incontinente yo el referido juez de paz mande traer el cordel con que se habian de medor las tierras y los espresados medidores lo tomaron, y anto mi con una vara de medor usual Mejicano, midieron cincuenta varas para hacer le midicion de tierras, y lo formo con los de assistencia, doy fee.

TEODORO GONZALEZ.

De ass'a: JOSE MA. GUTIERREZ,
FRANC'O RICO.

Sello Cuarto, Dos Reales.

Habilitado provisionalmente por la aduana maritima del puerto de Monterey, en el departamento de las Californias, para el año de mil ochocientos cuarenta y tres.

MICHELTORENO. PABLO DE LA GUERRA.

[SEAL.]

En el misma parage, dia, mes y año, siendo as nuevo de la mañana, yo el presente juez de paz suplente de este jurisdicion, mande á los medidores nombrados se dispusieron para la midicion de terreno que se le habia de hacer al C. Feliciano Soberanes, como apoderado de su hija para d'ho acto; y puertos en la Orilla del Rio, N. midicion hasta la Orilla de la Cañada de la Vina, S. dos cientos cincuenta cordeles de a cincuenta varas, y des de los linderos de D. Estevan de la Torre. O. se midieron hasto los alisos que queda en el camino real abajo de los mesa E. bien cordeles: en cuyos medidas mande se formaron las mojoneras correspondientes que senalen los linderos que le pertenecer á d'ha Da. Josefa Soberanes.

El terreno medido corresponde á dos sitios de ganado mayor poco mas, y lo firmaron conmigo el interesado los colindantes, y los testigos de asistencia, doy fée.

TEODORO GONZALEZ,
FELICIANA SOBERANES.

De ass'a: JOSE MA. GUTIERREZ,
FRAN'CO RICO.

En el rancho de los Coches, á las siete dias del mes de D'bre, de mil ochocientos cuarenta y tres, yo juez de paz suplente de Monterey y su jurisdicion, des pues de practicadas las medidas del mencionado rancho por los que resultaron dos, y poco mas sitios de ganado mayor, y presentes los colindantes D. Estevan de la Torre y Da. Feliciana Soberanes, siendo estos conformes con los demas antos, mande que entrase, en posecion del nominado, rancho D'na Josefa Soberanes, y por poder de este D. Feliciana, bajo de las medidas citadas, y formale dado del caso lo que verifico inmediatamente este ultimo señor arrancando yervas, y haciendo demonstraciones como por poder dueño del terreno de que se le hace, y dado juridica posecion cuya validacion los anto uso formando con los colindantes, apodedado, y testigos de asistencia, que doy fee.

TEODORA GONZALEZ,
FELICIANA SOBERANES.

Ass'a: JOSE MA. GUTIERREZ,
FRANC'O RICO.

MONTEREY, 1 *de D'bre, de* 1843.

Tomese razon en el libro de poseciones, y devuelvase este espediente original á la interesada para los fines que mas lo convengan.

Asi yo el juez de paz constitucional suplente, C. Teodoro Gonzalez, lo decrete, mande, y forme, con los de asistencia.

TEODORO GONZALEZ.

Ass'a: JOSE MA. GUTIERREZ,
FRANC'O RICO.

En la misma f'ha se tome razon de esta posecion á fojas del libro respectivo, y se le devolvio este espediente á la interesada, y para su constancia lo formo y rubrico.

TEODORO GONZALEZ.

De ass'a: JOSE MA. GUTIERREZ,
FRANC'O RICO.

Filed in office, February 18th, 1853.

GEO. FISHER, *Sec'y*.

Translation of Juridical Possession.

Seal of the First Class, Six Dollars.

Authorized by the maritime custom-house of Monterey, for the years 1839 and 1840.

(Signed) ANTONIO M'A OSIO.
(Signed) ALVARADO.

[Custom-house Seal.]

Made valid for the years 1841 and 1842.

Juan B. Alvarado, Constitutional Governor of the Department of the Californias.

Whereas D'na M'a Josefa Soberanes has solicited for her personal benefit, and that of her family, the place known by the name of the Coches, bounded by the river, by the rancho of Don Salvador Espinosa, and that of Don Joaquin de la Torre; the necessary steps and investigations having been previously taken and made in conformity with the laws and regulations, I have, by virtue of the powers conferred upon me, granted unto her, in the name of the Mexican nation, the land mentioned, declaring unto her the ownership thereof by these present letters, subject to the approval of the most excellent departmental junta, and to the following conditions:

1st. She may fence it without prejudice to the crossings, roads, and ; she shall enjoy it freely and exclusively, destining it to the use or cultivation which may best suit her, but within a year she shall build a house, and it must be inhabited.

2d. She shall ask the respective justice to give her juridical possession in virtue of this title, and he will designate the boundaries, at the limits whereof she will, besides the landmarks, put down her fruit-trees or wild ones of some utility.

3d. The land whereof mention is made, consists of two square leagues, (sitios de ganado mayor,) as appears by the plot which accompanies the espediente. The justice who gives possession will cause it to be measured according to law, leaving the surplus which may result to the nation for the necessary uses.

4th. If she transgress these conditions, she shall forfeit her right to the land, and it may be denounced by another. I consequently command, that this title being held as firm and valid, a record thereof be made in the corresponding book, and this be delivered to the party interested for her security and further uses.

Given in Monterey, on the fourteenth of June, one thousand eight hundred and forty-one.

(Signed) JUAN B. ALVARADO.
" MANUEL JIMENO,
Secretary.

A record of this title has been made in the book of entries respecting adjudications of vacant lands, at the 2d page of folio 4th.

(Signed) JIMENO.

His excellency the governor orders this title to be recorded in the office of the prefect of the first district.

(Signed) JIMENO.

Let it be recorded.

(Signed) ESTRADOR.

A record of this superior title has been made in the respective book of this office, at folio 7, first and second pages.

Monterey, July 10th, 1842.

(Signed) JOSE M'A CASTANARES,
Secretary ad interim.

Seal of the Fourth Class, Two Reales.

Authorized provisionally by the maritime custom-house of the port of Monterey, in the department of the Californias, for the year eighteen hundred and forty-three.

(Printed) MICHELTORENO.

(Signed) PABLO DE LA GUERRA.

[Custom-house Seal.]

I, Maria Josefa Soberanes, a resident of this port, do give full, ample and sufficient power, such as in law may be requisite and necessary, to Don Feliciana Soberanes, for him in my name, and in the name of my heirs and successors, to be present at or receive the juridical possession which I have asked for of the justice of my residence, who has been pleased to appoint the seventh day of the present month and year for carrying the same into execution.

In due testimony whereof, I sign this in Monterey, on the second day of December, eighteen hundred and forty-three.

(Signed)
MARIA JOSEFA SOBERANES DE RICHARDSON.

Seal of the Third Class, One Dollar.

Authorized provisionally by the maritime custom-house of the port of Monterey, in the department of the Californias, for the year eighteen hundred and forty-three.

(Printed) MICHELTORENO.

(Signed PABLO DE LA GUERRA.

[Custom-house Seal.]

Señor acting Justice of the Peace:

I, Maria Josefa Soberanes, a resident of this place, before you with due respect, do make known, that having obtained from the government of this department the land known by the name of Los Coches, as appears by the title granted in my favour on the fourteenth of June, eighteen hundred and forty-one, and the plat which accompanies this,

and wanting merely (sole munmente for solamente) the juridical possession ordered to be given to me in the second article of said title, in order to count upon the ownership with all the legal requisites, I request that you will be pleased to give it to me, assignating the day which you may choose to appoint; therefore I humbly request that you will decree favorably to my *to my* petition, whereby I shall receive a great favor; swearing that which is necessary.

At the request of the party interested.

Monterey, December 2d, 1843.

(Signed) FELICIANA SOBERANES.

MONTEREY, *2d December*, 1843.

Considered as presented and admitted, let me, the present justice of the peace, proceed to the measurement, designation of boundaries and juridical possession asked for by the party interested in this memorial, appointing for the execution thereof the seventh day of the present month, in order to which the neighboring landholders shall be summoned thus. Thus I, the acting justice of the peace of this place, did decree, command and sign, with the assisting witnesses.

(Signed) TEODORO GONZALEZ.

Assisting witnesses:

(Signed) JOSE MARIA GUETIERREZ.

(Signed) FRANC'O RICO.

On the same date the summons ordered in the foregoing decree were issued; in testimony whereof I note, ordain, and sign with my flourish and with the assisting witnesses.

(Signed) (Alcalde's Flourish.)

(Signed) JOSE MA. GUETIERREZ.

RANCHO DE LOS COCHES, *7th December*, 1843.

Citizen Feliciana Soberanes and Estuban de la Torre, both neighboring land-owners, being present, I appointed as measurers Messrs. Carlos Espinosa and Andres Juares, who will proceed to said measurement, assignation of boundaries and possession of Doña Maria Josefa Soberanes, who appointed as agent to represent her own person Don Feliciana Soberanes; and in accepting and taking oath thereof, the measurers will proceed to fulfil their commission.

Thus I, the acting constitutional justice of the peace of this jurisdiction, did decree, command and sign with the assisting witnesses.

(Signed) TEODORO GONZALEZ.

(Signed) FRANCISCO RICO,

(Signed) JOSE MA. GUETIERREZ.

On the same date, citizens Carlos Espinosa and Andres Juares being present, the decree of their appointment was notified to them, and on being made acquainted therewith, they said that they heard it, that they accepted it and did accept it, swearing by God our Lord and the sign of the cross (which they made) that they would make use thereof

according to the best of their knowledge and ability, without fraud against any person; signing with me and the assisting witnesses.

(Signed) TEODORO GONZALEZ.

Assisting witnesses:

(Signed) FRANCISCO RICO,

(Signed) JOSE MA. GUETIERREZ.

Immediately afterwards, I, the said justice of the peace, ordered a cord to be brought wherewith the lands were to be measured, and said measurers took it and in my presence measured off fifty varas with a common Mexican vara measuring-rod to measure the land with, and I signed with the assisting witnesses.

(Signed) TEODORO GONZALEZ.

Assisting witnesses:

(Signed) FRANCISCO RICO,

(Signed) JOSE MA. GUETIERREZ.

Seal of the Fourth Class, Two Reales.

Authorized provisionally by the maritime custom-house of the port of Monterey, in the department of the Californias, for the year eighteen hundred and forty-three.

(Printed) MICHELTORENA.

(Signed) PABLO DE LA GUERRA.

In the same place, day, month and year, it being nine o'clock in the morning, I, the present acting justice of the peace of this jurisdiction, ordered that the measures be got ready for the measurement of the land to be measured to citizen Feliciana Soberanez, as agent for his daughter in this act; and placing themselves at the edge of the river, they measured from north to south to the edge of the cañada of the vineyard, two hundred and fifty cords of fifty varas each; and from west to east they measured to the sycamore trees (alisos) situated on the high road below the table-land, (musa,) one hundred cords.

At which measurement I ordered the corresponding landmarks to be formed, to assignate the boundaries belonging to Doña Josefa Soberanes; the land measured comprises a little more than two sitios de ganada mayor; and the party interested, the *the* neighboring land owners and the assisting witnesses, signed with me. Whereof I give testimony.

(Signed) TEODORO GONZALEZ.

Assisting witnesses:

(Signed) FELICIANO SOBERANES,

(Signed) JOSE MA. GUETIERREZ,

(Signed) FRANCISCO RICO.

In the rancho of las Coches, on the seventh day of the month of December, eighteen hundred and forty-three, I, the acting justice of the peace of Monterey and its jurisdiction, after concluding the measurement of the said rancho, which resulted in a little more than two

sitios de ganado mayor, being present the neighboring landholders, Don Estaban de la Torre and Don Feliciana Soberanes, who were satisfied with all the proceedings, I ordered Doña Josefa Soberanes, and, in virtue of her power of attorney, Don Feliciana, to enter with possession of said rancho, agreeable to the before-mentioned measurements and customary formalities, which the last-mentioned person did, pulling up grass and making demonstrations as agent of the owner of the land, whereof juridical possession has been given. The validity whereof I authorize, signing with the adjoining land-owners, agent and assisting witnesses; whereof I give testimony.

(Signed) TEODORO GONZALEZ.

Assisting witnesses:

(Signed) JOSE MA. GUETIERREZ,
(Signed) FELICIANA SOBERANES,
(Signed) FRANCISCO RICO.

Monterey, December 8th, 1843.

Let this be recorded in the book of possessions, and let this espediente be returned original to the party interested, for the purposes which may best suit her.

Thus I, the acting constitutional justice of the peace, citizen Teodoro Gonzalez, did decree, command and sign, with the assisting witnesses.

(Signed) TEODORO GONZALEZ.

Assisting witnesses:

(Signed) JOSE MA. GUETIERREZ,
(Signed) FRANCISCO RICO.

On the same date, a record of this possession was made on folio twenty-second of the respective book, and this espediente was returned to the party interested.

In testimony whereof, I sign and place my flourish hereto.

(Signed) TEODORO GONZALEZ.

Assisting witnesses:

(Signed) JOSE MA. GUETIERREZ,
(Signed) FRANCISCO RICO.

I, the undersigned, do hereby certify the foregoing to be a true and faithful translation of the original title and act of possession in the hands of Doña Josefa Soberanez.

W. E. P. HARTNELL,
State Translator.

Monterey, 16th October, 1852.

Filed in office, February 18th, 1853.

GEO. FISHER, *Secretary*.

Opinion of the Board.

MARIA JOSEFA SOBERANES vs. THE UNITED STATES. } No. 599.—Los Coches.

The documentary evidence filed in support of this claim consists of the original grant to the claimant, made by Governor Alvarado, on the 14th of June, 1841; the testimonial of the act of judicial possession executed by Teodoro Gonzalez, justice of the peace, on the 7th of December, 1843, and a traced copy of the original espediente, contained in the archives of the former government, now in the custody of the United States surveyor general for California.

The genuineness and authenticity of these documents are established by competent testimony; it is also in proof that the grantee entered into possession of the land in the year the grant was made; that in that year she built a house on it, in which she has lived with her family from that time to the present; that she built corrals and fences on it, and cultivated portions of the land and stocked it with cattle and horses. Since that time she has made other improvements and extended the cultivation.

This evidence shows a substantial compliance with the conditions of the grant, and would be sufficient to entitle the claimant to a confirmation, if there was any proof in the case from which an intelligible description of the land granted could be obtained, in order to enable a surveyor to locate and establish its boundaries.

The grant describes it as the place known by the name of Los Coches, adjoining the river, the rancho of Don Salvador Espinosa, and of Don Joaquin de la Torre. In the third condition it is described as two sitios de ganada mayor, (two square leagues,) as shown by the map which accompanies the espediente, reserving the surplus to the nation.

The map does not in any degree aid the description given in the grant. The only object named in the grant as a boundary, which it contains, is the Rio Madre; the ranchos named as the other boundaries are not laid down, nor is there anything to show their relative position to the land granted or to the river, nor is this defect in the testimony supplied by the record of the juridical measurement. That act assignates two lines, one commencing on the edge of the river, and running from north to south to the edge of the canada of the vineyard, two hundred and fifty cords of fifty varas each, or 12,500 varas.

The other form the boundaries of Don Esteban de la Torre, from west to east, one hundred and fifty varas each, or 5,000 varas, to the sycamore trees (alisos) situated in the high road, below the table-land. There is no evidence to show of what point on the river, or in the boundary of Esteban de la Torre, either of the lines commence, nor the position of the objects at which they are represented as terminating; neither does it appear whether the lines then formed two of the exterior lines of the tract, or whether they were run through its centre, crossing at right angles.

In either event, a parallelogram erected upon them would contain two and a half leagues of land, while the grant itself calls for the previous quantity of two leagues. From this testimony it is manifestly impossible to describe in a decree the particular tract of land intended to be granted, with sufficient certainty to enable a surveyor to identify and locate it.

It is possible that this deficiency in the documentary evidence might have been supplied by oral testimony, going to show the points of beginning, and the position on the land of the objects called for as boundaries, as well as the fact that they do not embrace more than the quantity granted.

But the failure on the part of the claimant to produce it is fatal to the confirmation of her claim. Her application, therefore, for a confirmation must be rejected.

Filed in office, September 27th, 1854.

GEORGE FISHER, *Secretary*.

Decree.

MARIA JOSEFA SOBERANEZ vs. THE UNITED STATES. } No. 599.—Los Coches.

In this case, on hearing the proofs and allegations, it is adjudged by the commissioners that the claim of the petitioner is not valid, and it is therefore decreed that her application for a confirmation thereof be denied.

ALPHEUS FELCH,
R. AUG. THOMPSON,
S. B. FARWELL,
Commissioners.

Filed in office, September 27th, 1854.

GEO. FISHER,
Secretary.

And it appearing, to the satisfaction of this board, that the land hereby adjudicated is situated in the southern district of California, it is hereby ordered, that two transcripts of the proceedings and of the decision in this case, and of the papers and evidence upon which the same are founded, be made out and duly certified by the secretary, one of which transcripts shall be filed with the clerk of the United States district court for the southern district of California, and the other be transmitted to the Attorney General of the United States.

UNITED STATES DISTRICT COURT,
Southern district of California.

CLERK'S OFFICE, LOS ANGELES.

I, Charles E. Carr, clerk of the district court of the United States for the southern district of California, do hereby certify that the fore-

going thirty-three pages, numbered from 1 to 33, both inclusive, contain a full, true, and correct copy of transcript in case No. 202 filed in my office, wherein Maria Josefa Soberanes is appellant, and the United States are appellees, for Los Coches.

In testimony whereof, I have hereunto set my hand and affixed the seal of said court at Los Angeles, California, this 17th day of March, A. D. 1856.

[L. S.]

C. E. CARR, *Cl'k*,
By O. MORGAN, *Dep'y*.

District Court of the United States, southern district of California.

CLERK'S OFFICE, LOS ANGELES COUNTY.

MARIA JOSEFA SOBERANES
vs.
THE UNITED STATES.
} Docket No. 202.—Transcript No. 599.

Be it remembered, that on the day of , A. D. 185 , in the district court of the United States for the southern district of California, the following proceedings were had, to wit: a duly certified transcript of the proceedings and decision of the commissioners to ascertain and settle the private land claims in the State of California, when sitting as a board in the case wherein Maria Josefa Soberanes is the claimant against the United States, for the place named "Los Coches," was received and filed, and docketed with No. 202, and is as follows, to wit:

(Vide page 1 of this Transcript.)

LOS ANGELES, *Feb'y 5th*, 1855.

In this case notice of appeal was filed by claimants.

(Vide page 5.)

Upon which the following proceedings were had in their chronological order, to wit:

LOS ANGELES, *April 23d*, 1855.

In the same case, the following order was entered to *to* take further testimony.

(Vide page 6.)

LOS ANGELES, *May 22d*, 1855.

In the same case, notice of appeal was filed by claimant's attorneys.

(Vide page 6.)

LOS ANGELES, *June 15th*, 1855.

In the same case, motion and order to take further testimony was entered and filed.

(Vide page 7.)

LOS ANGELES, *June 16th*, 1855.

In the same case, the deposition of Feliciana Soberanes was taken before Chs. E. Carr, commissioner to take testimony, and filed.

(Vide page 7.)

Los Angeles, *June* 16*th*, 1855.

In the same case, the deposition of Joaquin de la Torre, a witness on the part of claimant, was taken before Chs. E. Carr, U. S. commissioner, and filed.

(Vide page 9.)

Los Angeles, *Sept.* 19*th*, 1855.

In this case, the petition for review was filed by claimant.

(Vide page 11.)

Los Angeles, *Sept.* 24*th*, 1855.

In the same case, the answer of P. Ord, U. S. attorney, was filed.

(Vide page 12.)

Los Angeles, *Sept.* 24*th*, 1855.

In this case, the decree confirming the claim to claimant was filed.

(Vide page 13.)

Los Angeles, *Oct.* 18*th*, 1855.

In the same case, the order of appeal from the decision of this court to the Supreme Court of the United States was filed.

(Vide page 14.)

Notice of Appeal.

United States of America,
Southern district of California, city and county of Monterey.

Sir: You will please take notice, that it is my intention to prosecute an appeal before the United States district court for the southern district of California, from the decision of the board of commissioners to ascertain and settle the private land claims in the State of California: In the matter of the claim of Maria Josefa Soberanes, or Maria Josefa Soberanes de Richardson, for the rancho called Los Coches, being two and a half leagues (more or less) of land, and situated in the county of Monterey, near the ex-mission of La Soledad, and being numbered 599 on the docket of the aforesaid board of commissioners.

Witness my hand by my attorney, Feliciana Soberanes, this 27th day of January, A. D. 1855.

MARIA JOSEFA SOBERANES DE RICHARDSON,
By my father and attorney in fact.

(Signed) FELICIANO SOBERANES.

Before me, ALEX. S. TAYLOR,
Dep'y Clerk U. S. Dist. Court.

To Charles E. Carr, Esq.,
Clerk United States District Court
for the southern district of California, Los Angeles.

Filed Feb'y 5th, 1855.

C. E. CARR, *Clerk.*

Motion to take further Testimony.

MARIA JOSEFA SOBERANES, appellant,
vs.
THE UNITED STATES, appellees.

In the United States District Court for the southern district of California.
Hon. I. S. K. Ogier, presiding judge.

The said appellant, Feliciano Soberanes, by attorney, moves the said court for leave to take further testimony in the above entitled suit; being on appeal from the board of land commissioners to ascertain and settle private land claims in the State of California; said case being known on the docket of said commission as No. 599. The said testimony to be used on the trial of said appeal.

(Signed) D. S. GREGORY,
Attorney for Appellant.

Filed April 23d, 1855.
(Signed) C. E. CARR, *Clerk.*

Notice of Appeal.

Case No. 599.—On appeal from the Board of U. S. Land Commissioners.

JOSEFA SOBERANES, app't.,
vs.
THE UNITED STATES, app'ees. } Claim for "Los Coches."

SIR: Please take notice that the claimant in the above case will prosecute the appeal therein.

Yours, respectfully,
CLARK, TAYLOR & BUKH,
Attorneys for Claimant.

San Francisco, May 9th, 1855.

To the CLERK *of the U. S. district court for the southern district of California.*

Filed May 22d, 1855.
(Signed) C. E. CARR, *Clerk.*

Motion and Order to take Testimony.

U. S. District Court for southern district.

MARIA JOSEFA SOBERANES
vs.
THE UNITED STATES. } "Los Coches."—No. 202.—(Transcript No. 599.)

In this cause, on motion of claimant and appellant, in person, P. Ord, esq., attorney and counsel for respondent and appellee, ordered that testimony be taken herein by either party.

Filed June 15th, 1855.
(Sg'd) C. E. CARR, *Cl'k.*

912

Deposition of Feliciano Soberanes.

U. S. District Court, southern district of California.

MARIA JOSEFA SOBERANES, appl't,
vs.
THE UNITED STATES, app'ee. } No. 202.

Deposition of Feliciano Soberanes, a witness on the part of appellant.

Quest. 1st. What is your name, age, place of residence, and present occupation?

Answer. My name is Feliciano Soberanes; my age is sixty-six years; I reside in Monterey at the Soledad; my occupation, ranchero.

Quest. 2d. Do you know the rancho of Los Coches, situate in Monterey county? If yea, state if it has been occupied, by whom, how long, and in what manner; and what are its boundaries?

Answer. I know the rancho of Los Coches, in Monterey county. It has been occupied by the present claimant up to the present time since the year 1842, with house, corrals, cattle; a part is in cultivation. The said ranch is bounded on the north by the River Salinas and Arroyo Seco, on the east by the said river, on the south by the rancho of Esteban de la Torre, on the west by the rancho of the Soledad. (Question and answer as to the boundaries objected to by the U. S. att'y.) There are about two leagues of land, a little more or less, on said ranch.

Cross-examined by the U. S. Att'y.

Quest. 1st. How did you obtain your information about the boundaries of said rancho?

Ans. Because I was present when the juridical possession was given, and received the same for claimant, as her agent; claimant is my daughter.

Quest. 2. How far is the land claimed from the sea-coast?

Ans. It is about sixteen leagues to the coast near Monterey; I do not know the distance from the sea-coast towards the west.

Re-examined by Counsel for Appellant.

Quest. Do you know when the boundaries you have spoken of were established; if so, when, and by whom?

Ans. They were established by Don Teodoro Gonzales, the judge, when he gave juridical possession, about the year 1844.

Cross-examined.

Quest. Does Teodoro Gonzales still live; if yea, where does he live?

Ans. Yes, he is still living; he lives in Monterey.

(Sg'd) FELICIANO SOBERANES.

Sworn to and subscribed at Monterey, this 16th day of June, 1855.

(Sg'd) C. E. CARR, *U. S. Com'r.*

Filed 16th June, 1855.

(Sg'd) CH. E. CARR, *Cl'k*,
By A. S. TAYLOR, *Dp'ty.*

Deposition of Joaquin de la Torre.

District Court of the U. S., southern district of Cal'a.

MARIA JOSEFA SOBERANES, appl't,
vs.
THE UNITED STATES, app'ee.
} No. 202.—"Los Coches."

Deposition of Joaquin de la Torre, a witness on the part of appellant, taken by consent of parties before Charles E. Carr, U. S. Commissioner, appointed to take testimony in this case.

Present: D. S. Gregory, attorney for appellant, P. Ord, U. S. att'y. T. Abiego sworn as interpreter.

Joaquin de la Torre, being duly sworn, deposes and says:

Quest. 1st. What is your name, age, place of residence and occupation?

Ans. My name is Joaquin de la Torre; my age is forty-two years; I reside in Monterey; my occupation, farmer.

Quest. 2. Do you know the rancho of Los Coches, situate in the county of Monterey, and claimed by Maria Josefa Soberanes? If yea, state whether it has been occupied, by whom, how long, and in what manner.

Ans. I know the rancho of Los Coches, situate in the county of Monterey, and claimed by Maria Josefa Soberanes. It has been occupied by the said Maria J. Soberanes since the year 1842, I think, up to the present time, with house, corrals, cattle and horses.

Quest. 3. Do you know the boundaries of Los Coches? if yea, state what they are, and if they are well known. (Objected to by the U. S. attorney as to the substance.)

Ans. I know the boundaries of Los Coches; it is bounded on the south by the Encinalito of the mouth of the Cañada, on the east and north by lands belonging to me, on the west by the Salinas river and the Arroyo Seco. (Objected to by the U. S. attorney.)

Quest. 4th. Do you know how much land is contained in Los Coches, within the boundaries described by you?

Ans. Yes, there are about two leagues, more or less.

Cross-examined by the U. S. Attorney.

Quest. How do you know that the boundaries you have described are the true boundaries of the land claimed?

Ans. When a dispute occurred between the claimant and Esteban de la Torre about the boundaries, the alcalde, Teodoro Gonzales, went there to settle the dispute between them, and fixed the boundaries between Esteban de la Torre and claimant in this case; this was about the year 1843.

Quest. Were you on the ground at the time Gonzales marked out the line?

Ans. I was not there, but afterwards, when Don Esteban de la Torre returned from there, he told me what the boundaries were between the rancho of Esteban de la Torre and Maria Josefa Soberanes.

Quest. How far is the land claimed from the sea-coast?

Ans. I think it is about seventeen leagues by the Monterey road; it is nearer over the hills to the west, but they are impassable.

(Sg'd) JOAQUIN DE LA TORRE.

Sworn to and subscribed at Monterey, this 16th day of June, A. D. 1855, before me,

(Sg'd) C. E. CARR, *U. S. Com'r.*

Filed 16 June, 1855.

CHS. E. CARR, *Cl'k*,

(Sg'd) By ALEX. S. TAYLOR, *Dp'ty.*

Petition for review.

MARIA JOSEFA SOBERANES vs. THE UNITED STATES. } No. 202.—Com's Docket No. 599.

To the hon. the District Court of the U. S. for the southern district of California:

The petition of Maria Josefa Soberanes respectfully showeth, that this cause is on appeal from the decision of the U. S. board of commissioners for the ascertainment and settlement of private land claims in California.

That the claim filed by your petitioner before said board was for four leagues of land locate in the southern district of California, for a description of which land and your petitioner's title thereto reference is hereby specially made to the petition filed before said board. That after considering the claim of your petitioner, and the proofs filed in support of the same, said board, on the 26th of September, 1854, decided said claim to be invalid. That a transcript of the record of said proceedings was filed in this court on the 6th of March, 1855, and a notice of appeal filed May 22d, 1855. Your petitioner prays that said decision of said board may be reversed, and that this court will confirm his title to said land.

J. CLARK,
Att'y for Claimant.

Filed Sept. 19th, 1855.

C. E. CARR, *Cl'k.*

Answer of U. S. Dist. Att'y.

In the District Court of the United States for the southern district of California.

MARIA JOSEFA SOBERANES vs. THE UNITED STATES. } No. 202.—(Transcript No. 599.)

The answer of Pacificus Ord, attorney of the United States for the southern district of California, to the petition of Maria Josefa Soberanes, for a review of the decision of the U. States land commissioners

for the State of California, for and in behalf of the United States, says: That he denies generally, all and singular, each and every allegation in the said petition contained. And he denies further, that the alleged title of the said petitioner and claimant is valid; and he prays that this hon. court will affirm the decision of the said commissioners, and deem the said title to be invalid, and general relief.

(Signed) P. ORD,
Attorney for the United States for the southern district of California.

Filed Sept. 20th, 1855. C. E. CARR, *Cl'k*,
(Signed) By J. W. ROSS, *Dept.*

Decree.

MARIA J. SOBERANES, appellant,
vs.
THE UNITED STATES, appellees. } No. 202.—For Los Coches.

District Court United States for the southern district of Cal'a.

This cause coming on to be heard on appeal from the final decision of the commissioners to ascertain and settle private land claims in the State of California, under an act of Congress approved 3d March, 1851, on the transcript of the decision and proceedings, and on the papers and evidence on which said decision was founded, and on additional testimony taken in this court; and it appearing to the court that said transcript has been duly filed according to law, and counsel for the respective parties having been heard, it is ordered, adjudged, and decreed that the decision of the said commissioners be and the same is hereby reversed and annulled. And it is further ordered, adjudged, and decreed, that the claim of the appellant, the said Maria Josefa Soberanes, is a good and valid claim to the land set forth in the record, and that said claim is hereby confirmed, to the extent of two square leagues, the quantity set forth in the original grant set forth in the record, and within the limits therein mentioned; provided the said quantity of two leagues be contained within said limits; and if said quantity be not contained within said limits, then the claim of said appellant to said less quantity be and the same is hereby confirmed to the said Maria Josefa Soberanes.

(Signed) M. HALL McALLISTER,
Judge circuit court U. S. for the districts of California.

Filed Sept. 24th, 1855.

C. E. CARR, *Cl'k*,
(Signed) By JOHN W. ROSS, *Dept.*

Order of Appeal to Supreme Court.

In the U. States District Court for the southern district of California.
Special Term, Sept. 1855.—Los Angeles.

MA. JOSE SOBERANES, app'ee,
ads.
THE UNITED STATES, app'lt. } No. 202.—Transcript No. 599.

On motion of P. Ord, Attorney of the United States for the southern district of California, it is ordered by the court, that an appeal be

914

granted the United States, to the Supreme Court of the United States, from the judgment of this court against the United States, in the above entitled cause, rendered on or about the 24th day of September, A. D. 1855.

(Signed) P. ORD,
U. S. Dist. Att'y.

Filed Oct. 18th, 1855.

(Signed) C. E. CARR, *Cl'k*,
By J. W. ROSS, *Dep'y.*

UNITED STATES DISTRICT COURT,
Southern District of California.

CLERK'S OFFICE, LOS ANGELES.

I, Charles E. Carr, clerk of the district court of the United States for the southern district of California, do hereby certify the foregoing fourteen pages, numbered from 1 to 14, both inclusive, to contain a true, correct and full transcript of the record of the proceedings, and of the decision of the said court, of the documentary evidence and of testimony of witnesses upon which the same was founded, on file in this office in case No. 202 on the docket of the said court, wherein Maria Josefa Soberanes is appellant and the United States are appellees, for the place named "Los Coches."

In testimony whereof I have hereunto set my hand and affixed the seal of said court, at Los Angeles, California, this 17th day of March, A. D. 1856, and of the independence of the United States of America the eightieth.

[SEAL.]

C. E. CARR, *Cl'k*,
By O. MORGAN, *Dep'ty.*